

**CITY OF EUREKA
CITY COUNCIL/
REDEVELOPMENT AGENCY/
PUBLIC FINANCING
AUTHORITY AGENDA**

Marian Brady 1st Ward
Linda Atkins 2nd Ward
Mike Newman 3rd Ward
Melinda Ciarabellini 4th Ward
Lance Madsen 5th Ward



Frank J. Jäger, Mayor

**REGULAR MEETING
TUESDAY, APRIL 5, 2011
CLOSED SESSION 5:00 P.M.
REGULAR SESSION 6:00 P.M.
COUNCIL CHAMBER
531 K STREET
EUREKA, CA 95501**

David Tyson, City Manager
Pam Powell, City Clerk
William Bragg, Interim City Attorney

CLOSED SESSION

If closed session items cannot be completed by 5:55 P.M., they will be continued at the conclusion of the regular agenda, provided there is time. If time does not allow then those closed session items will be continued to the next regular meeting.

A. PUBLIC COMMENT PERIOD

(Limited to 3 minutes each speaker on closed session agenda items only)

B. Conference with legal counsel – existing litigation

City v. Floyd Squires (Humboldt Co. Superior Court No. CV1000894)
Pursuant to California Government Code Section 54956.9(a)

C. Public Employment – City Attorney

Pursuant to California Government Code Section 54957

D. Conference with real property negotiators - Property: City-owned property located at 2186 Tydd Street, APN's: 002-191-0202 and 002-191-013

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating parties: Humboldt Open Door Clinic

Under negotiation: Price, terms and conditions.

Pursuant to California Government Code Section 54956.8

E. Conference with real property negotiators

Property: Coastal Dependent Industrial property located on the water side of Waterfront Drive, westerly of the Eureka Small Boat Basin; upland portion of APN 003-062-021.

Agency negotiator: David Tyson for the Eureka Redevelopment Agency

Negotiating parties: David Schneider

Under negotiation: price, terms, and conditions.

Pursuant to California Government Code Section 54956.8

F. Conference with labor negotiators

Agency designated representatives: Gary Bird for City of Eureka

Employee organization: Eureka Firefighters' Local #652 (EFL) and Eureka Fire Officers Local (EFOL)

Pursuant to California Government Code Section 54957.6

REGULAR SESSION – 6:00 P.M.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

REPORT OUT OF CLOSED SESSION

MAYOR’S ANNOUNCEMENTS

Presentation of Proclamations: Sexual Assault Awareness Month April 2011
 Humboldt Arts Council 45th Anniversary
 March for Parks, April 15, 2011

COUNCIL REPORTS / CITY-RELATED TRAVEL REPORTS

Councilmember Brady: Acknowledgment of the Northern California Association of
 Nonprofits Leader Achievement Award for 2010 to Jeff
 Lamoree, founding President and current board member of the
 Sequoia Park Zoo Foundation.

BOARD/COMMISSION REPORTS

Open Space Parks and Recreation Commission

PUBLIC HEARINGS

*Public Hearings are scheduled for a time certain of 6:00 P.M. unless noticed otherwise,
or as soon thereafter as possible.*

1. Public Hearing – Chapter 153 Flood plain Ordinance
 Recommendation: 1. Hold a public hearing.
 2. Waive reading, read by title only and introduce Bill No
 825-C.S. an Ordinance of the City of Eureka Amending
 Title 15 Pertaining to Flood Hazard Area Regulations.
 (Community Development)

PUBLIC COMMENT PERIOD

*This is the time for members of the public who wish to be heard on matters that do not
appear on the Agenda. You may also request that a matter appearing on the Consent
Calendar be pulled and discussed separately. Pursuant to City Council Minute Order
dated May 4, 1989, City Council policy is to limit each speaker to three (3) minutes.*

Such time allotment or portion thereof shall not be transferred to other speakers. Pursuant to City Council Minute Order dated June 6, 2000, the public will be allowed to speak concurrently with the calling of an agenda item following the staff presentation of that item.

Pursuant to the Brown Act, the City Council may not take action on an item that does not appear on the Agenda.

2. Is there any person in the audience who wishes to address the Council at this time?

CONSENT CALENDAR

Notice to the Public: *All matters listed under this category are considered to be routine by the City Council and will be enacted by one motion. Unless a specific request is made by a Councilmember or the public, the Consent Calendar will not be read. There will be no separate discussion of these items. However, if discussion is required, that item will be removed from the Consent Calendar and considered separately.*

3. Council meeting minutes.
Recommendation: Approve the regular Council/Redevelopment Agency Board meeting minutes of February 1, 2011 and February 15, 2011 as submitted.
(City Clerk)
4. Pemberton, Amy
Recommendation: Reject the claim for damages.
(City Attorney)
5. Resolution Authorizing Examination of Transactions and Use Tax Records
Recommendation: Adopt City Council Resolution authorizing Hinderliter, deLlamas and Associates to examine Transactions and Use Tax records of the City in order to provide Compliance auditing services.
(Finance Director)
6. 2010 Lease Revenue Bonds Reimbursement Agreement Amendment
Recommendation: 1. Adopt a resolution of the Governing Board of the Eureka Public Financing Authority authorizing an approving an amendment to the reimbursement agreement relating to the Eureka Public Financing Authority 2010 Lease Revenue Bonds, Taxable Series A and Series B; and

2. Adopt a resolution of the Governing Board of the Eureka Redevelopment Agency authorizing and approving an amendment to the reimbursement and agreement relating to the Eureka Public Financing Authority 2010 Lease Revenue Bonds, Taxable Series A and B; and

3. Adopt a resolution of City Council of the City Eureka Agency authorizing and approving an amendment to the reimbursement agreement relating to the Eureka Public Financing Authority 2010 Lease Revenue Bonds, Taxable Series A and Series B.

(Finance Director)

ORDINANCES/RESOLUTIONS

7. City of Eureka "Guide to the City Council Meeting Process"

Recommendation: Adopt Resolution of the City Council of the City of Eureka adopting "A Guide to City Council Meetings", confirming and Establishing Policies for Council Meeting Proceedings.

(City Clerk)

REPORTS/ACTION ITEMS

8. Tobacco Prevention Update

Recommendation: Receive report from the American Cancer Society

(City Manager)

9. Medical Cannabis Selection Committee Recommendation

Recommendation: 1. Receive presentation from Humboldt Bay Wellness; and
2. Invite Humboldt Bay Wellness to submit an application for a Conditional Use Permit to establish a medical cannabis cultivation, production and distribution facility in the City limits.

(City Manager)

10. Supplemental Transaction and Use Tax Oversight Committee

Recommendation: Authorize the Finance Advisory Committee to assume the responsibilities of the Citizen Oversight Committee as described in Section 35.191 of the Supplemental Transaction and Use Tax.

(City Manager)

11. Strategic Planning Process

Recommendation: Authorize the City Manager to engage the services of Roger James to assist the City with a Strategic Planning process for an amount not to exceed \$10,500.
(City Manager)

CITY MANAGER/EXECUTIVE DIRECTOR'S REPORTS

Fire Department Monthly Report

ADJOURNMENT

If open session items cannot be completed by 9:30 P.M., the meeting may be adjourned to the next regular meeting or Council may vote to extend the meeting.

NOTICES

- The City Council agenda and supporting documents are available for public review on the Friday afternoon prior to the Tuesday meeting at the City Clerk's Office, the Eureka Humboldt County Library and on-line at www.ci.eureka.ca.gov.
- The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon the request and consensus of the Mayor and Council.
- Any writing that is a public record not exempt from public disclosure and relating to an agenda item for open session of the City Council is available for public inspection at the Office of the City Clerk, 531 K Street, Room 207, Eureka, CA 95501.
- The meeting rooms are ADA accessible. Accommodations and access to City meetings for people with special needs must be requested of the City Clerk at 441-4175 72 hours in advance of the meeting. This agenda and other materials are available in alternate formats upon request.
- All persons in attendance at public meetings are requested to observe the following rules of civil debate:
 1. We may disagree, but we will be respectful of one another.
 2. All comments will be directed to the issue at hand.
 3. Personal attacks are unacceptable.

Applauding or other displays of approval/disapproval are discouraged.

- Regular City Council/Redevelopment Agency meetings are broadcast live by Humboldt Access on Cable Channel 10. Council meetings can also be viewed on line at www.accesshumboldt.net – Search archives “Eureka City Council Meetings”.
- To minimize distractions, please be sure all personal communication devices are turned off or on silent mode.

Questions? Please e-mail ppowell@ci.eureka.ca.gov or contact the City Clerk's office at (707) 441-4175.

AGENDA SUMMARY**RE: CHAPTER 153 FLOODPLAIN ORDINANCE****FOR AGENDA DATE: OCTOBER 19, 2010**
AGENDA ITEM NO.:1**RECOMMENDATION:**

1. Hold a public hearing
2. Waive reading, read by Title only, and introduce Bill No. 825-C.S., AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE 15 PERTAINING TO FLOOD HAZARD AREA REGULATIONS.

SUMMARY:

The City of Eureka is proposing an amendment to the city zoning regulations Chapter 153 titled FLOOD HAZARD AREA REGULATIONS. The purpose and intent of Chapter 153 is to promote the public health, safety, and general welfare, and to minimize public and private loss due to flood conditions in specific areas. Provisions incorporated in this chapter are designed to minimize those losses through regulation of land use in areas of special flood hazard.

ATTACHMENTS:

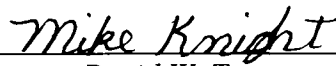
Attachment 1 Bill No. -C.S., AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE 15 PERTAINING TO FLOOD HAZARD AREA REGULATIONS.

prepared by: Robert S. Wall, Senior Planner

Continued page 2

FISCAL IMPACT: None with this action.**DEPARTMENT HEAD SIGNATURE:**


Sidnie L. Olson
Director of Community Development

CITY MANAGER SIGNATURE:


David W. Tyson
City Manager

REVIEWED BY:

Assistant City Manager
City Attorney

DATE:

3/29/11

3/23/11

INITIALS:

MK

WRB

Council Action:

Ordinance No. _____

Resolution No. _____

SUMMARY (continued):

On June 11, 2009, the City of Eureka hosted William Hom, P.E., Chief of the Department of Water Resources, Floodplain Assistance Section, regarding a Community Assistance Visit or "CAV." The CAV is a periodic "check-up" of the City's participation of the National Flood Insurance Program. Unsatisfactory participation within this program can result in the expulsion of the community from the flood insurance program, which would render flood insurance unattainable for citizens of Eureka. Currently, there are approximately 100 flood insured properties/policy holders within Eureka

The City received a satisfactory evaluation regarding floodplain development mitigation, with the exception of the need to update the floodplain ordinance. The last whole-scale update of the floodplain ordinance was in 1986, with minor revisions occurring in 1994. According to Mr. Hom, many pertinent definitions have changed or have been added to FEMA's lexicon of terms and procedures related flood hazard mitigation and post flood event assessment and reconstruction. Mr. Hom suggested that Eureka would attain a satisfactory flood hazard management status with a code update which utilized FEMA's and the State's ordinance model. Staff followed the State's recommendation and developed the subject draft ordinance based on FEMA's California model floodplain guidelines.

The development regulations within the ordinance remain virtually unchanged, i.e. federal standards for development within flood-prone areas enforced by the local government. Furthermore, very little local discretion can be utilized when participating in the National Flood Insurance Program. Simply put, as initiated in 1980's nationwide, applicants will continue to provide evidence of their respective building pad elevations in relation to the floodplain elevation and/or "floodproof" their construction, regardless of what jurisdiction they build in.

In order to amend the text of the Eureka Municipal Code a finding must be made that the proposed amendment is consistent with the objectives of the zoning regulations as prescribed in § 155.002 of Eureka Municipal Code. The zoning regulations are adopted to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. The purpose and intent of Chapter 153 is to regulate development within the areas of flood hazards. More specifically, minimize or prevent threats to life safety and property damage. As such, the purpose of Chapter 153 is consistent with the purpose of Chapter 155. Staff, therefore, concludes that the City Council can make the finding that the Flood Hazard Area Regulations are consistent with the objectives of the zoning regulations.

Planning Commission Action

The Planning Commission reviewed and provided an affirmative recommendation to the City Council to review and act upon the amended Flood Hazard Area Regulations on September 13, 2010.

RE: CHAPTER 153 FLOODPLAIN ORDINANCE	FOR AGENDA DATE: APRIL 5, 2011 AGENDA ITEM NO.: <i>Page 3</i>
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Environmental Quality Act

Amending the text of the Eureka Municipal Code is a “project” for the purposes of the California Environmental Quality Act (CEQA). However, pursuant to the CEQA Guidelines, section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Attachment 1.Draft Chapter 153 Flood Hazard Area Regulations

BILL NO. ____-C.S.

ORDINANCE NO. ____-C.S.

**AN ORDINANCE OF THE CITY OF EUREKA AMMENDING
CHAPTER 153: FLOOD HAZARD AREA REGULATIONS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

The following chapter is hereby amended within Title 15:

CHAPTER 153 TITLE FLOOD HAZARD AREA REGULATIONS

§153.001 STATUTORY AUTHORIZATION.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Eureka City Council does hereby adopt the following floodplain management regulations.

§153.002 FINDINGS OF FACT.

- (A) The flood hazard areas of the City of Eureka are subject to periodic inundation which can result in a loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (B) These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities also contribute to flood losses.

§153.003 STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the City to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

- (F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- (G) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (H) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§153.004 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this ordinance includes regulations to:

- (A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (B) Require that uses and facilities vulnerable to floods, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (D) Control filling, grading, dredging, and other development which may increase flood damage;
- (E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

§153.005 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

A ZONE - see "**SPECIAL FLOOD HAZARD AREA.**"

ACCESSORY STRUCTURE means a structure that is either:

- (1) A subordinate structure which use is appropriate, subordinate, and customarily incidental to that of the main structure or the main use of the land and which is located on the same site with the main structure or use; or
- (2) An attached or detached garage or similar covered structure for the parking of vehicles for residential units; or
- (3) A small shed or similar structure less than 120 square feet in size.

ACCESSORY USE means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

ALLUVIAL FAN means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, or fine sediments that have been eroded from areas of higher topography, transported by flood flows, and then deposited at lower elevations, and which are subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

APEX means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

AREA OF SHALLOW FLOODING means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - See "**SPECIAL FLOOD HAZARD AREA**."

BASE FLOOD means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

BASE FLOOD ELEVATION (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT means any area of a building having its floor subgrade - i.e., below ground level - on all sides.

BREAKAWAY WALLS are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

BUILDING - see "**STRUCTURE**."

COASTAL HIGH HAZARD AREA means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ENCROACHMENT means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 19, 1986 (Ord. 448-C.S.).

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD, FLOODING, OR FLOOD WATER means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
- (2) The condition resulting from flood-related erosion.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD-PRONE AREA means any land area susceptible to being inundated by water from any source - see **FLOODING**.

FLOODPLAIN ADMINISTRATOR is the community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN MANAGEMENT means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "**REGULATORY FLOODWAY**."

FLOODWAY FRINGE is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

FRAUD AND VICTIMIZATION as related to the Variance section of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Planning Commission will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

GOVERNING BODY is the City Council of the City of Eureka which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

HARDSHIP as related to the Variance section of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The Planning Commission requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the

Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places

LEVEE means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

LOWEST FLOOR means the lowest floor of the lowest enclosed area, including basement (see "**BASEMENT**" definition).

- (1) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - (a) The flood openings standards in **§153.017(C) (3)**;
 - (b) The anchoring standards in **§153.017(A)**;
 - (c) The construction materials and methods standards in **§153.017(B)**; and
 - (d) The standards for utilities in **§153.018**.
- (2) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "**BASEMENT**" definition). This prohibition includes below-grade garages and storage areas.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE is defined in the City of Eureka substantial damage/improvement procedures. See §153.014 (B) (1).

MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION, for floodplain management purposes, means structures for which the "start of construction" commenced on or after June 19, 1986, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 19, 1986.

OBSTRUCTION includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-HUNDRED-YEAR FLOOD or "100-year flood" - see "**BASE FLOOD**."

PRIMARY FRONTAL DUNE means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

PROGRAM DEFICIENCY means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

PUBLIC SAFETY AND NUISANCE as related to the Variance section of this ordinance, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

REMEDY A VIOLATION means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

RIVERINE means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SAND DUNES mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SHEET FLOW AREA - see **AREA OF SHALLOW FLOODING**.

SPECIAL FLOOD HAZARD AREA (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

START OF CONSTRUCTION includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health,

sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

V ZONE - see "***COASTAL HIGH HAZARD AREA***."

VARIANCE means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

VIOLATION means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

GENERAL PROVISIONS

§153.006 LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Eureka.

§153.007 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of Eureka, Humboldt County California, and Incorporated Areas" dated June 17, 1986, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), dated June 17, 1986, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Planning Commission by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at Eureka City Hall, Eureka, California.

§153.008 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the City of Eureka from taking such lawful action as is necessary to prevent or remedy any violation.

§153.009 ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§153.010 INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§153.011 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Eureka or any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

§153.012 SEVERABILITY.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

ADMINISTRATION

§153.013 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager or his or her designee, is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

§153.014 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

A. Permit Review.

Review all development permits to determine:

1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;

2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Eureka and
5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. The Floodplain Administrator, with the concurrence of the City of Eureka Public Works/Building Safety Departments shall determine the extent of substantial damage and/or improvement to an affected structure or building. The City shall use **§153.027 and §153.028**, the **Substantial Improvement/Damage Determination Sections** of this Ordinance and any subsequent FEMA Technical Guides to determine if structural damage and /or improvements rise to the level of substantial as defined in **§153.005**. The City shall, when determining the "Market Value" of a structure, shall utilize the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial deconstruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by, the Chief Building Official or designee.
2. The Floodplain Administrator shall assure all procedures referenced in **§153.014** are coordinated with other City departments/divisions and implemented by City staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with **§153.007**, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the "Provisions for Flood Hazard Reduction" Section of this Ordinance.

A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

D. Notification of Other Agencies.

1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

- b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by **§153.017 (C) (1) & §153.020** (lowest floor elevations);
2. Certification required by **§153.017 (C) (2)** (elevation or floodproofing of nonresidential structures);
3. Certification required by **§153.017 (C) (3)** (wet floodproofing standard);
4. Certification of elevation required by **§153.019 (A) (3)** (subdivisions and other proposed development standards);
5. Certification required by **§153.022 (B)** (floodway encroachments);
6. Information required by **§153.023 (F)** (coastal construction standards); and
7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the City's biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in **§153.16**.

(G) Remedial Action.

Take action to remedy violations of this ordinance as specified in **§153.008**.

(H) Biennial Report.

Complete and submit Biennial Report to FEMA.

(I) Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

§153.015 DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in **§153.007**. Application for a development permit shall be made on forms furnished by the City of Eureka and fees established by the City Council. The applicant shall provide the following minimum information:

- A.** Three (3) sets of plans for residential construction, five (5) sets for commercial structures, drawn to scale, showing:
 - 1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - 2. Proposed locations of water supply, sanitary sewer, and other utilities;
 - 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - 4. Location of the regulatory floodway when applicable;
 - 5. Base flood elevation information as specified in **§153.007 or §153.014 (C)**;
 - 6. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures; and
 - 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in **§153.017 (C) (2)** of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
- B.** Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in **§153.017 (C) (2)**.
- C.** For a crawl-space foundation, location and total net area of foundation openings as required in **§153.017 (C) (3)** of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-

93.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in **§153.014 (E)** of this ordinance.

§153.016 APPEALS.

The Planning Commission of the City of Eureka shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

PROVISIONS FOR FLOOD HAZARD REDUCTION

§153.017 STANDARDS OF CONSTRUCTION.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO, adequate drainage paths shall be constructed around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential construction.

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the Base Flood Elevation specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no Base Flood Elevation is specified.
- c. In an A zone, without Base Flood Elevations specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation; as determined under **§153.014(c)**.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the Chief Building Official to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

2. **Nonresidential construction.**

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with **§153.017(c) (1)** or:

- a. Be floodproofed, together with attendant utility and sanitary facilities below the elevation recommended under **§153.017(c) (1)**, so that the structure is watertight with walls substantially impermeable to the passage of water; and
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of **§153.017(c) (2) (a) & (b)** are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. **Flood openings.**

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 2. The bottom of all openings shall be no higher than one foot above grade; and
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and

4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter;
 - b. Engineered openings shall be certified by a registered civil engineer or architect.
4. **Manufactured homes.**
 - a. See **§153.020**.
5. **Garages and accessory structures.**
 - a. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See **§153.017 (C) (3)**. Areas of the garage below the BFE must be constructed with flood resistant materials. See **§153.017 (B)**.
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - b. Detached garages and accessory structures.
 1. "Accessory structures" used solely for parking or limited storage, as defined in **§153.005**, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in **§153.022**; and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with **§153.017 (C) (3)**.
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in **§153.017**.

§153.018 STANDARDS FOR UTILITIES.

- A.** All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - 1. Infiltration of flood waters into the systems; and
 - 2. Discharge from the systems into flood waters.
- B.** On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

§153.019 STANDARDS FOR SUBDIVISIONS AND OTHER PROPOSED DEVELOPMENT.

- A.** All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions shall:
 - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans or tentative subdivision maps.
 - 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B.** All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C.** All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D.** All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

§153.020 STANDARDS FOR MANUFACTURED HOMES.

- A.** All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
 - 1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be

elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of **§153.023**.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of **§153.020 (A)** will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above the base flood elevation; or
2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

§153.021 STANDARDS FOR RECREATIONAL VEHICLES.

- A.** All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
1. Be on the site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 3. Meet the permit requirements of **§153.015** of this ordinance and the elevation and anchoring requirements for manufactured homes in **§153.020**.
- B.** Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of **§153.021 (A)** and **§153.023**.

§153.022 FLOODWAYS.

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A.** Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Eureka.

- B.** Within an adopted regulatory floodway, the City shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C.** If **§153.022 (A) & (B)** are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable “provision for flood hazard reduction”

§153.023 COASTAL HIGH HAZARD AREAS.

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under **§153.007**, the following standards shall apply:

- A.** All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
- B.** All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C.** All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in **§153.005** of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- D.** Fill shall not be used for structural support of buildings.
- E.** Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- F.** The Floodplain Administrator shall obtain and maintain the following records:
 - 1. Certification by a registered engineer or architect that a proposed structure complies with **§153.023 (A)**; and
 - 2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

VARIANCE PROCEDURES

§153.024 NATURE OF VARIANCES.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a property and are not personal in nature. A variance may be granted for a property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

§153.025 CONDITIONS FOR VARIANCES.

- A.** Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of the Administration and Provisions for Flood hazard Reduction Sections of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B.** Variances may be issued for the repair or rehabilitation of "**HISTORIC STRUCTURES**" (as defined in **§153.005** of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C.** Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D.** Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the Planning Commission need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the Planning Commission believes will both provide relief and preserve the integrity of the local

ordinance.

- E.** Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and
 2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Humboldt County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- F.** The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

§153.026 APPEAL BOARD.

- A.** Upon reviewing requests for variances, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
1. Danger that materials may be swept onto other lands to the injury of others;
 2. Danger of life and property due to flooding or erosion damage;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. Compatibility of the proposed use with existing and anticipated development;
 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Variances shall only be granted upon a:

1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional **"HARDSHIP"** to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see **"PUBLIC SAFETY AND NUISANCE"**), cause **"FRAUD AND VICTIMIZATION"** of the public, or conflict with existing local laws or ordinances.

C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of **§153.026 (A) through §153.026 (D)** are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

D. Upon consideration of the factors of **§153.026 (A)** and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

SUBSTANTIAL IMPROVEMENT/DAMAGE DETERMINATION

§153.027 IMPROVEMENT COSTS THAT MUST BE INCLUDED WITHIN SUBSTANTIAL IMPROVEMENT AND/OR DAMAGE DETERMINATIONS

A. All structural elements, including but not limited to:

1. Spread or continuous foundation or footings and pilings
2. Monolithic concrete slab foundations
3. Bearing walls, tie beams, and trusses
4. Wood or reinforced concrete decking or roofing
5. Floors and ceilings including insulation
6. Attached decks, stairways and porches
7. Interior partition walls
8. Exterior wall finishes
9. Windows and doors
10. Roof sheathing
11. Roof re-shingling or re-tiling
12. Roof dormers
13. Balconies
14. Hardware

B. All interior finish elements, including, but not limited to:

1. Floor cover such as tile, wood, vinyl, carpet, marble etc.

2. Wall and ceiling finishes such as drywall, painting, stucco, plaster, wood paneling, marble, etc.
3. Kitchen, utility, bathroom, and garage cabinets and counter tops
4. Built-in bookcases, cabinets, entertainment centers, aquariums, bars, wine racks etc.

C. All utility and service equipment, including but not limited to:

1. HVAC equipment including ducting, boilers, chillers etc.
2. Plumbing services including water heaters, sinks, fixtures, toilets, showers, tubs, etc.
3. Electrical services including light fixtures, ceiling fans, etc.
4. Built-in appliances including dishwashers, ovens, ranges, garbage disposals, trash compactors, etc.
5. Security and fire alarms, and fire suppression systems
6. Central vacuum systems
7. Water filtration, conditioning or recirculation systems

D. Miscellaneous costs that must be included:

1. Labor and other costs associated with demolishing, removing or altering of building components
2. Overhead and profit
3. The values of donated or discounted materials must be included at their full market value and estimated as though they were purchased during a normal market transaction
4. The value of self or volunteered labor must be estimated at prevailing wages for the appropriate type of construction wage scale.

§153.028 Improvement Costs That May Be Excluded

A. Costs of improvements to correct existing code violations, only if the following:

1. A regulatory official was informed and knew the extent of the code related deficiencies
2. The deficiency was in existence prior to the damage event or improvement
3. Only the “minimum necessary” to assure safe living conditions may be excluded from the improvement cost

B. Historic structures must be:

1. Listed on the National Register of Historic Places; or
2. Certified by the Secretary of the Interior as contributing to the historic significance of a historic district; or
3. Listed on a State inventory of historic places approved by the Secretary of the Interior; or
4. Listed on a local inventory to the satisfaction of the State Office of Historic Preservation
5. If the improvements are for purposes of restoration or preservation only and the structure meets one of the above “certification”, then the substantial improvement requirements may be waived upon issuance of a variance.

C. ADA requirements

Structural upgrades necessary to comply with the American Disabilities Act may be excluded from the total improvement cost if the building falls within one of the 12 organizations included within the purview of Title III of ADA.

D. Debris removal and clean-up costs may be excluded:

1. Debris removal from building or lot, dumpster rental, transport fees to landfill, landfill disposal fees

2. Clean-up dirt and mud removal, building dry-out etc.

E. Outside improvements may be excluded including:

1. Landscaping
2. Sidewalks
3. Fences
4. Yard lights
5. Swimming pools
6. Screened pool enclosures
7. Sheds
8. Gazebos
9. Detached structures including garages
10. Landscape irrigation systems
11. Wells and septic systems

F. Excludable miscellaneous items

Items not considered real property including but not limited to throw rugs, furniture, refrigerators, other contents not connected/attached to, or part of the structure.

G. Other excludable costs:

1. Plans and specifications
2. Surveys
3. Permit Fees

Section 2.

This ordinance becomes effective thirty (30) days after the date of its enactment.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the _____ day of _____, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Lance Madsen, Mayor Pro Tem

THE ABOVE ORDINANCE WAS SUBMITTED TO THE MAYOR on the ____ day of _____, 2011, and hereby approved.

Frank Jager, Mayor

Approved as to Administration:

David. W. Tyson, City Manager

Approved as to form:

William Bragg, Interim, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____ day of _____, 2011

Pamela J. Powell, City Clerk

Existing Eureka Municipal Code, Chapter
153 Flood Hazard Area Regulations

CHAPTER 153: FLOOD HAZARD AREA REGULATIONS

Section

- 153.01 Purpose
- 153.02 Basis for establishing area of special flood hazard
- 153.03 Definitions
- 153.04 Development permit required; application
- 153.05 Review of development permit application
- 153.06 Information to be obtained and maintained
- 153.07 Alteration of watercourses
- 153.08 Standards
- 153.09 Regulatory floodways
- 153.10 Variances
- 153.11 Enforcement
- 153.12 Abrogation and greater restrictions

§ 153.01 PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private loss due to flood conditions in specific areas. Provisions incorporated in this chapter are designed to minimize those losses through regulation of land use in areas of special flood hazard. This chapter shall apply to all lands officially designated as areas of special flood hazard.

('63 Code, § 10-5.301) (Ord. 448-C.S., passed 6-19-86)

§ 153.02 BASIS FOR ESTABLISHING AREA OF SPECIAL FLOOD HAZARD.

(A) The areas of special flood hazard are identified by the Federal Insurance Administration, through the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Eureka, California," dated June 17, 1986, with accompanying Flood Insurance Rate Map and all subsequent revisions which is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at City Hall, 531 K Street, Eureka, California 95501.

(B) Where the Flood Insurance Study and/or FIRM has not established base flood elevation data, the Community Development Department shall obtain, review, and reasonably utilize any base flood elevation from a federal, state or other source in order to administer § 153.08, as criteria for regulations new construction, substantial improvements, or other development.

('63 Code, § 10-5.302) (Ord. 448-C.S., passed 6-19-86; Am. Ord. 460-C.S., passed 3-17-87; Am. Ord. 581-C.S., passed 11-3-94)

§ 153.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. A request for a review of the Community Development Director's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING. A designated AO, AH, or VO Zone on the FIRM. The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain in the community subject to a 1% or greater chance of flooding in a given year. This area is designated as Zone A, AO, AH, A1-30, V, VE, VO or V1-30 on the FIRM.

BASE FLOOD. The flood having a 1% chance of being equalled or exceeded in any given year (also known as the 100-year flood).

BREAKAWAY WALL. A wall that is not part of the structure support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building of supporting foundation system.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or dwelling operations located within the area of special flood hazard.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal water; and/or,
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY FLOODWAY MAP. The official map on which the Federal Insurance Administration has delineated both the areas of flood hazards and the floodway.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required facilities. For floodplain management purposes, the term MANUFACTURED HOME shall also include park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term MANUFACTURED HOME does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the START OF CONSTRUCTION commenced on or after the effective date of this chapter.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without

cumulatively increasing the water surface elevation more than one foot. The regulatory floodway is designated on the Flood Boundary and Floodway Map.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds of land ward of the beach.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), shall include substantial improvement, and shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or replacement or other improvement was within 180 days of the permit date. The actual start shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE. A walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or,
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, SUBSTANTIAL IMPROVEMENT is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or,

- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. ('63 Code, § 10-5.303) (Ord. 448-C.S., passed 6-19-86; Am. Ord. 460-C.S., passed 3-17-87)

§ 153.04 DEVELOPMENT PERMIT REQUIRED; APPLICATION.

(A) A development permit must be obtained from the Community Development Department prior to construction or development within any area of special flood hazard established in § 153.02 of this chapter. Plans, in duplicate scale, for an application for a development permit shall indicate the nature, location, dimensions and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

- (B) Specifically, the following information is required:
- (1) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) Proposed elevation, in relation to mean sea level, to which any structure will be floodproofed;
 - (3) Certification by a registered engineer or architect that the flood proofing methods for any nonresidential structure meet the floodproofing criteria in § 153.08 of this chapter;
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and,
 - (5) Elevation certificates, on forms provided by FEMA, prepared by a registered engineer or architect for all structures in an area of special flood hazard or a floodway.

('63 Code, § 10-5.304) (Ord. 448-C.S., passed 6-19-86; Am. Ord. 460-C.S., passed 3-17-87) Penalty, see § 150.999

§ 153.05 REVIEW OF DEVELOPMENT PERMIT APPLICATION.

(A) Applications for a development permit shall be reviewed by the Community Development Department. The Community Development Department shall coordinate the review of development permits with other city departments.

(B) The development permit application shall be reviewed to determine the following:

(1) That the permit requirements of this chapter have been satisfied and that the site is reasonably safe from flooding.

(2) If the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this chapter, ADVERSELY AFFECTS shall mean that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

('63 Code, § 10-5.305) (Ord. 448-C.S., passed 6-19-86)

§ 153.06 INFORMATION TO BE OBTAINED AND MAINTAINED.

The Community Development Department will obtain and maintain for public inspection and make available as needed for flood insurance policies, all certifications required in §§ 153.04, 153.05, 153.08, and 153.09 of this chapter.

('63 Code, § 10-5.306) (Ord. 448-C.S., passed 6-19-86; Am. Ord. 460-C.S., passed 3-17-87)

§ 153.07 ALTERATION OF WATERCOURSES.

In riverine situations, the city will notify adjacent communities and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. The flood carrying capacity of the altered or relocated portion of said watercourse shall be required to be maintained.

('63 Code, § 10-5.307) (Ord. 448-C.S., passed 6-19-86) Penalty, see § 150.999

§ 153.08 STANDARDS.

In all areas of special flood hazards the following standards shall apply:

(A) Anchoring. All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral

movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage and using methods and practices that minimize flood damage.

(2) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered engineer or architect or must meet or exceed the following minimum criteria. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(C) Elevation and floodproofing.

(1) New construction and substantial improvement of structures shall be elevated to at least one foot above the base flood elevation. Upon completion of the structure, the elevation of the bottom of the lowest structural member of the lowest floor, including basement shall be certified as meeting this requirement by a registered engineer or architect and provided to the Community Development Department. New nonresidential construction may meet the standards in subsection (2) of this division.

(2) New nonresidential construction shall be elevated in conformance with subsection (1) of this division (C).

(3) Additions to nonconforming, nonresidential, structures shall be elevated in conformance with subsection (1) of this division or, together with the attendant utility and sanitary facilities, meet the following requirements:

(a) Be floodproofed so that at the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

(c) Be certified by a registered professional engineer or architect that the professional developed and/or reviewed the structural design, specifications, and plans for construction, and that the design and methods of construction are in accordance with accepted standards of practice; and the standards of this division are satisfied. Such certification shall be provided to the Community Development Department.

(4) In no event shall basements be permitted below the base flood elevation.

(D) Standards for storage and installation of materials and equipment.

(1) The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(3) Electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) Standards for utilities.

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into floodwaters.

(2) On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(F) Standards for subdivisions.

(1) All tentative maps shall identify the flood hazard area and the base flood elevation. Proposals shall minimize the potential for flood damage in the design of the subdivision, including utilities as outlined in division (E) of this section. Adequate drainage shall be provided to reduce exposure to flood damage.

(2) Final subdivision maps shall provide base flood elevations. If the site is filled above the base flood, the final pad elevations shall be certified by a registered engineer or architect.

(3) For all proposals for development of five parcels or more, the rate of flood discharge exiting the development after construction shall be equal or less than flood discharge at the location prior to the development and shall be certified by a registered professional engineer.

(G) Standards for manufactured homes and manufactured home parks and subdivisions.

(1) All manufactured homes shall be placed on permanent foundations such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation, and securely anchored to the elevated foundation system. If pilings are used for elevation, construction standards for pilings shall be met.

(2) All manufactured homes and manufactured home additions to be placed in areas of special flood hazard shall be installed using methods and practices which minimize flood damage including anchoring to resist flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(3) Adequate road access for a hauler and surface drainage shall be provided as determined by the Director of Public Works.

(4) Proposals for manufactured home parks or subdivisions shall meet the requirements indicated in division (F) of this section.

('63 Code, § 10-5.308) (Ord. 448-C.S., passed 6-19-86; Am. Ord. 460-C.S., passed 3-17-87; Am. Ord. 589-C.S., passed 2-21-95) Penalty, see § 150.999

§ 153.09 REGULATORY FLOODWAYS.

(A) Located within areas of special flood hazard established in § 153.02 of this chapter are areas designated as floodways.

(B) Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

(1) The regulatory floodway shall be that floodway designated in the FIS, dated July 19, 1985.

(2) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the regulatory floodway unless certification by a registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

('63 Code, § 10-5.309) (Ord. 448-C.S., passed 6-19-86)

§ 153.10 VARIANCES.

(A) Variances from the requirements may be issued as provided for in Section 60.6 of the National Flood Insurance Program (NFIP) Regulations and in Title 14 of the California Administrative Code for coastal zone areas. Requests for variances shall be made to the Director of Community Development who shall have the authority to review and approve, approve with conditions, or deny the request. The Director's decision may be appealed to the City Planning Commission in accordance with this section.

(B) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to grant relief. Any applicant receiving a variance shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and such construction below the base flood level increases risks to life and property.

('63 Code, § 10-5.310) (Ord. 448-C.S., passed 6-19-86)

§ 153.11 ENFORCEMENT.

Enforcement of this chapter shall follow the procedures outlined in § 155.378 of this title.

('63 Code, § 10-5.311) (Ord. 448-C.S., passed 6-19-86)

§ 153.12 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair existing easements, covenants, or deed restrictions. However, were this chapter and another chapter, easement, covenant or deed restriction to conflict or overlap, whichever imposes the more stringent restrictions shall prevail, specifically including § 150.018(D) and Chapter 156 of this title.

('63 Code, § 10-5.312) (Ord. 448-C.S., passed 6-19-86)

3

MINUTES OF
EUREKA CITY COUNCIL
EUREKA REDEVELOPMENT AGENCY

February 1, 2011


The City Council/Redevelopment Agency of the City of Eureka met in REGULAR Session on the above date, 5:00 P.M. Closed Session, 6:00 P.M. Open Session, at the Eureka City Hall, Council Chambers, 531 "K" Street, Eureka.

PRESIDING: MAYOR JÄGER

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

ABSENT: NONE

MINUTES PREPARED BY:


PAMELA J. POWELL
City Clerk

COUNCIL APPROVAL ACKNOWLEDGED:

FRANK JÄGER
Mayor

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Public comment prior to closed session

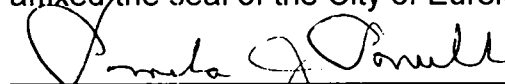
ACTION:

Kelly Walsh, Eureka Attorney representing Lawrence Badgley.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Closed session

ACTION:

Council met in closed session to discuss the following matters:

Conference with labor negotiators

Agency designated representatives: Gary M. Bird for City of Eureka

Employee organization: Eureka Firefighters' Local #652 (EFL) and Eureka Fire Officers Local (EFOL).

Conference with legal counsel-anticipated litigation

Significant exposure to litigation: two cases.

Conference with legal counsel-existing litigation

Lawrence Badgley vs. City of Eureka Case No. DR110062

Public Employment – City Manager

Conference with real property negotiators

Property: Coastal Dependent Industrial property located on the water side of Waterfront Drive, westerly of the Eureka Small Boat Basin; upland portion of APN 003-062-021.

Agency negotiator: David Tyson for the Eureka Redevelopment Agency

Negotiating parties: David Schneider

Under negotiation: price, terms, and conditions.

Upon reconvening to Open Session, it was announced that there were no final actions to report.

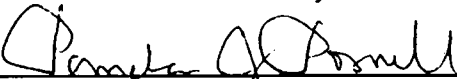
Agenda Item Closed Session

MINUTE ORDER, February 1, 2011
ITEM: Closed Session
PAGE: 2

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item Closed Session

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Mayor's announcements

ACTION:

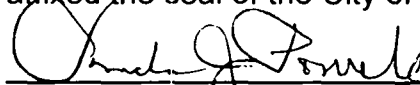
Mayor Jager welcomed local scouts who are working on a merit badge.

Mayor Jager announced that he had traveled to Sacramento to attend the New Mayor's and Councilmember Academy presented by the League of California Cities.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item M/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Council reports / City-related travel report

ACTION:

Councilmember Brady provided a report regarding her attendance at the New Mayor's and Councilmember Academy held in Sacramento.

Councilmember Atkins provided a report regarding her attendance at the League of California Cities' Housing, Community and Economic Development Committee meeting in Sacramento.

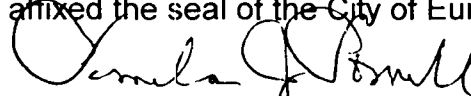
Councilmember Newman provided an update regarding his travel to Sacramento to attend the League of California Cities' New Mayor and Councilmember Academy.

Councilmember Ciarabellini provided a report regarding her attendance at the League of California Cities' New Mayor and Councilmember Academy.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item C/R

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Board/Commission reports

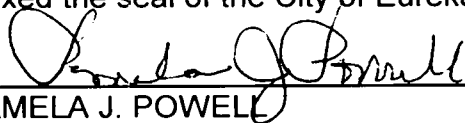
ACTION:

Keep Eureka Beautiful presented a report on their history and 15 years of service in Eureka.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item B/C

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Public Hearing – Schneider Cargo Storage Area Coastal Development
Permit

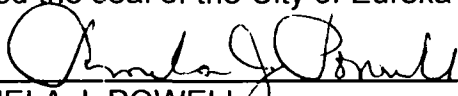
ACTION:

Council continued public hearing was continued to March 15, 2011.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Community Development

Agenda Item 1

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Public comment period

ACTION: The following individuals addressed the council at this time:

Sue Brandenburg, Eureka stated that the first Jefferson School related meeting occurred in 2003 with the second one in 2007. She would also like a four way stop sign at the Main Post office station.

Nicholas Bravo, Eureka broadcasts on Access Humboldt channels. He also wears a superman shirt as it represents his character and values.

Anne White, Eureka has concerns with the feeding of homeless on the Gazebo.

Richard Tolleson, Eureka reminded the Council of the Governor's initiative on the upcoming ballot to raise taxes. He would like the Council to write a letter to the Governor stating "no new taxes".


Bob Tuel, Eureka reports ongoing problems at the Sacco Amphitheater that includes drugs and vandalism. He suggests that the amphitheater be torn down and a brick plaza be put in its place.

Kia, Eureka has ongoing problems with City regulations regarding her property at 1564 Myrtle Avenue.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item 2

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Council meeting minutes.

ACTION:

Council approved the regular Council/Agency meeting minutes of December 7 and December 21, 2010 and the special Council/Agency meeting minutes of December 7, 2010 as submitted.

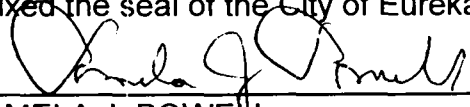
Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Clerk

Agenda Item 3

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Request for Exception to the Hiring Freeze

ACTION:

Council approved an exception to the hiring freeze for a Harbor Operations Technician I/II position.

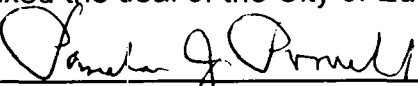
Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Personnel

Agenda Item 4

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Mayor's appointments to Boards, Commissions and Committees

ACTION:

Council approved the Mayor's appointment of Dave Parris to the Finance Advisory Board for a term expiring January 1, 2015.


Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Mayor

Agenda Item 4

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Rhododendron Parade

ACTION:

Council sponsored the Rhododendron Parade coordinated by Eureka Old Town Rotary.

Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

NOES: NONE

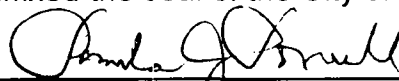
ABSENT: NONE

ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Manager

Agenda Item 6

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: City Manager At Will Agreement

ACTION: City Manager, David Tyson, provided a report. The following individuals addressed the Council regarding this subject:

Mary Beth Wolford, Eureka
Jeff Leonard, Eureka
Leo Sears, Eureka
Nick Bravo, Eureka
Mike Jones, Eureka
Virginia Bass, Eureka
Richard Tolleson, Eureka

Council authorized the Mayor to execute the City Manager At-Will Employment Agreement with David W. Tyson through December 31, 2012.

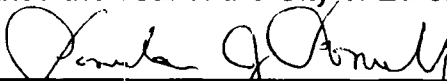
Adopted on motion by Councilmember Madsen, seconded by Councilmember Ciarabellini, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Manager

Agenda Item 7

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Twelve minute parking time limit – East Side of "F" Street, south of Second Street

ACTION:

Council adopted Resolution No. 2011-08 establishing a 12-Minute Parking Zone on the East Side of "F" Street, South of Second Street.


Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 8

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Harris and Central Traffic Signal Project – Bid No. 2009-17

ACTION:

Council accepted Harris and Central traffic signal construction project; and authorized the filing of a "Notice of Completion" at the Office of the County Recorder.


Adopted on motion by Councilmember Atkins, seconded by Councilmember Newman , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 9

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Sequoia Park Zoo – Prop 84 Nature Education Facilities Grant:
“Watershed Heroes”

ACTION:

Zoo Manager, Gretchen Ziegler provided a report. No one from the public commented on this item.

Council adopted Resolution No. 2011-09 approving the Application for Nature Education Facility Program Funds Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.


Adopted on motion by Councilmember Brady, seconded by Councilmember Ciarabellini , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 10

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Jefferson School Acquisition

ACTION:

Redevelopment Director, Cindy Trobitz Thomas and Arnie Herskovich of SHN provided a report. The following individuals addressed the Council on this matter:

John Chiv, Eureka
Loveene Dunaway, Eureka
Lois Sullivan, Eureka
Sylvia Scott, Eureka
Bonnie Burgess, Eureka
Ron Alexander, Eureka
Richard Evans, Eureka
Melanie Kuhnel, Eureka
Thomas Stewart, Eureka
Sue Brandenburg, Eureka
Lora Canzoneri, Arcata
Emma Nelson, Eureka
Kari Love, Eureka
Tom Peters, Eureka
Ron Kuhnel, Eureka
Nicholas Bravo, Eureka
Helen L'Annunziata, Eureka
Ruth Robertson, Eureka
Heidi Benzonelli, Eureka
Debbie Peticara, Eureka
Ann White, Eureka
Leo Sears, Eureka
Jane Stock, Eureka
Xandra Manns, Eureka
Gary Todoroff, Eureka
Jeff Leonard, Eureka
Richard Tolleson, Eureka
Lloyd Reece, Eureka
Lisa Ollivier, Eureka
Jeannie O'Neal, Eureka

MINUTE ORDER February 1, 2011

Page 2

Item 12

On motion by Councilmember Atkins, seconded by Councilmember Newman, and without objection, the council elected to take a brief recess at 8:38 P.M.

At 8:47 P.M. Council reconvened with all present.

Council withdrew from the agreement with Eureka City Schools to purchase Jefferson School.

Adopted on motion by Councilmember Newman, seconded by Councilmember Brady , and the following vote:

AYES: BRADY, NEWMAN, CIARABELLINI, MADSEN

NOES: ATKINS

ABSENT: NONE

ABSTAIN: NONE

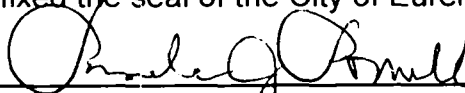
STATE OF CALIFORNIA)

County of Humboldt) ss.

City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Redevelopment

Agenda Item 11

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: City Manager/Executive Director's reports

ACTION:

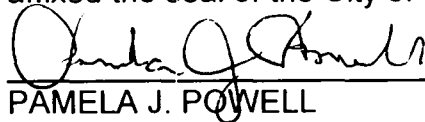
City Manager Tyson provided information regarding the following:

- Betty Chin invited the Council to attend a recognition dinner to be held on Thursday, February 3, 2011 at Sacred Heart Church in Eureka.
- Public Safety Report on Fire Statistics and activities for the month of January.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Manager

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 1, 2011.

SUBJECT: Adjournment

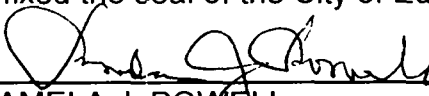
ACTION:

Without objection, the meeting was adjourned to closed session at 9:46 P.M.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

MINUTES OF
EUREKA CITY COUNCIL
EUREKA REDEVELOPMENT AGENCY

February 15, 2011

The City Council/Redevelopment Agency of the City of Eureka met in REGULAR Session on the above date, 5:00 P.M. Closed Session, 6:00 P.M. Open Session, at the Eureka City Hall, Council Chambers, 531 "K" Street, Eureka.

PRESIDING: MAYOR JÄGER

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN


ABSENT: NONE

MINUTES PREPARED BY:



PAMELA J. POWELL
City Clerk

COUNCIL APPROVAL ACKNOWLEDGED:


FRANK J. JÄGER
Mayor

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Public comment prior to closed session

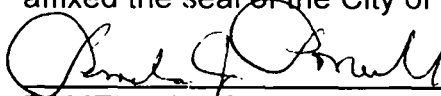
ACTION:

No one expressed an interest in addressing the Council at this time.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Closed session

ACTION:

Council met in closed session to discuss the following matters:

Conference with labor negotiators

Agency designated representatives: Gary M. Bird for City of Eureka

Employee organization: Eureka Firefighters' Local 652 (EF) Eureka Fire Officers Local (EFOL)

Conference with legal counsel-anticipated litigation

Significant exposure to litigation: Two cases

Conference with real property negotiators – Property: APN 001-054-45 and 001-054013

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating Parties: Eureka Waterfront Partners

Under negotiations: price, terms, and conditions

Conference with labor negotiators

Agency designated representatives: David Tyson for City of Eureka

Employee organization: Unrepresented management, mid-management, and confidential employees

Conference with legal counsel-existing litigation

Name of case: United States of America v. City of Eureka et, al; Case No. C085725

Upon reconvening to Open Session, it was announced that in the case of the United States of America v. City of Eureka et. al; the City of Eureka would not pursue an appeal.

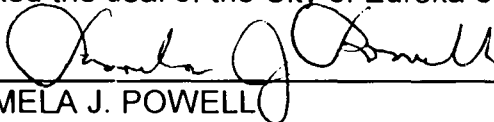
Agenda Item Closed Session

MINUTE ORDER, February 15, 2011
ITEM: Closed Session
PAGE: 2

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item Closed Session

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Mayor's announcements

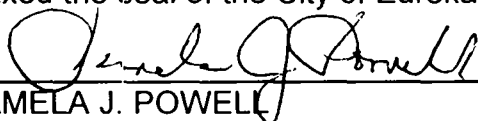
ACTION:

Mayor Jäger introduced Genisis Gromlich, a Humboldt State University student who will be interning in the Mayor's office.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item M/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Council reports / City-related travel report


ACTION:

Councilmember Brady invited Tony Smithers of the Humboldt County Convention and Visitor's Bureau to the podium to announce that the City of Eureka was chosen as one of the nation's top 12 distinctive destinations.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item C/R

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Board/Commission reports

ACTION:

Keep Eureka Beautiful awarded Phil Glenn with a plaque to honor his service to the City of Eureka by picking up trash along Waterfront Drive. KEB member Charlotte McDonald reminded everyone that May 7th will be May Day Clean Up Day in the City of Eureka. Jeff Katz announced that on March 5, 2011, KEB would be planting 85 trees in the City. An additional 100 trees are available for planting.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item B/C

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Public comment period

ACTION:

The following individuals addressed the council at this time:

Lorene Dunaway, Eureka is frustrated with decisions by new Councilmembers. She stated that she will be the scorekeeper on how their votes affect the Citizens of Eureka.

Dennis Scott, Eureka stated that he missed the reports on the Eureka Police Department's POP Team. He contacted Sergeant Watson of the POP Team and received the POP Team's statistics. He then read them for Council.

Lloyd Reece, Eureka feels that the Council had pre-conceived ideas regarding the purchase of Jefferson School and did not listen to the public when they spoke at the previous meeting.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept.

Agenda Item 1

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Council meeting minutes.

ACTION:

Council approved the regular Council/Agency meeting minutes of January 4, 2011 and the special Council/Agency meeting minutes of January 4, 2011 as submitted.

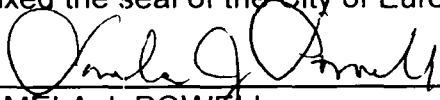
Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Clerk

Agenda Item 2

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Claim for damages of Humboldt Property Management

ACTION:

Council rejected the claim of Humboldt Property Management.

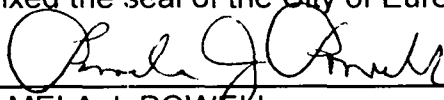
Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

Originating Dept. City Attorney

Agenda Item 3

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Appropriation of Donated funds for Eureka Volunteer Patrol Equipment Purchase

ACTION:

Council authorized appropriation of donated funds to Account #110-42100-7490 for the purchase of (1) Toughbook laptop computer and accessories.

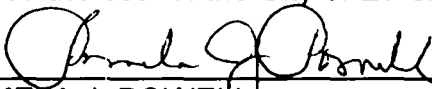
Adopted on motion by Councilmember , seconded by Councilmember , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

Originating Dept. Police

Agenda Item 4

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Finance Department Record Destruction List

ACTION:

Council adopted Resolution No. 2011-11 of the City Council of the City of Eureka to Authorized the Destruction of Certain Records.

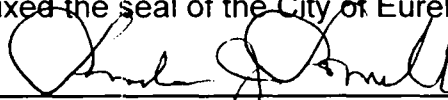
Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Finance

Agenda Item 5

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Request for Exception to the Hiring Freeze

ACTION:

Council approved an exception to the hiring freeze for the Community Development Director position.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Personnel

Agenda Item 6

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Request for Exception to the Hiring Freeze

ACTION:

Council Approve an exception to the Hiring freeze for a Treatment Plan Operator I/II position.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

NOES: NONE

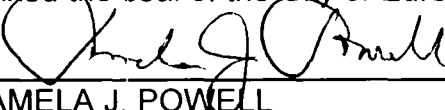
ABSENT: NONE

ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Personnel

Agenda Item 7

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: "C" Street Market Square & Parking Lot Utilities, Bid No. 2008-20

ACTION:

Council accepted "C" Street Market Square and Parking Lot Utilities Bid No. 2008-20 and authorized the filing of a "Notice of Completion" at the Office of the County Recorder.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

NOES: NONE

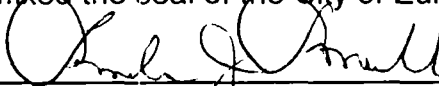
ABSENT: NONE

ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 8

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Eureka Police Department General Fund Appropriation

ACTION:

Council appropriated \$25,000 from the General Fund to purchase Police Department equipment offset by \$25,000 in unanticipated revenue received for CAD/RMS billing.

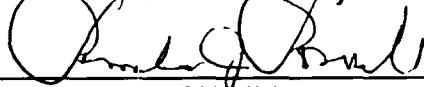
Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Police

Agenda Item 9

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Reservoir Maintenance & Security Project Phase 3-Roof Structure
Recoating

ACTION:

Assistant City Manager Michael Knight provided a report. No one from the public addressed the Council regarding this matter.

Council rejected all bids on the Reservoir Maintenance and Security Project Phase 3, Bid No. 2011-9.

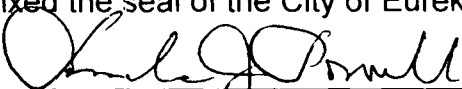
Adopted on motion by Councilmember Atkins, seconded by Councilmember Ciarabellini, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 10

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Transient Occupancy Tax Lien

ACTION:

City Manager David Tyson provided a report. No one from the public addressed the council regarding this subject matter.

Council introduced, waived reading, and read by title only Bill No. 834-C.S., an Ordinance of the City of Eureka amending Chapter 35 of the Eureka Municipal Code to authorize the use of Lien Occupancy Taxes.

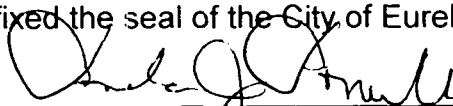
Adopted on motion by Councilmember Madsen, seconded by Councilmember Brady, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
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PAMELA J. POWELL
CITY CLERK

Originating Dept. City Manager

Agenda Item 11

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Measure N, the Marina Center LCP Amendment Ballot Measure

ACTION: Community Development Director Sidnie Olson, provided a report along with Randy Gans and Mike Casey of CUE VI. The following individuals addressed the council regarding this subject matter:

Brian Mitchell, CUE VI
Unidentified citizen

Council waived reading, read by title only, and adopted Bill No. 829-C.S., Ordinance No. 764-C.S. making finding and amending the City of Eureka Local Coastal Program land use plan to allow and establish regulations for the Marina Center mixed-use development project; and waived reading, read by title only and adopted Bill No. 830-C.S., Ordinance No. 765-C.S. making findings and amending the City of Eureka Local Coastal Program Implementation Plan to allow and establish regulations for the Marina Center mixed-use development project; and adopted Council Resolution No. 2011-09 submitting the Local Coastal Program Amendment contained in the voter approved Measure N, the "Marina Cent Local Coastal Program Amendment Ballot Measure" to the California Coastal Commission for certification".

Adopted on motion by Councilmember Newman, seconded by Councilmember Brady, and the following vote:

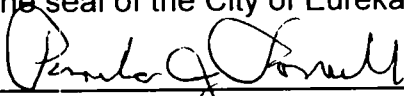
AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

MINUTE ORDER: February 15, 2011
Page 2
Item 12

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. Community Development

Agenda Item 12

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Marine Life Protection Act Initiative Update

ACTION:

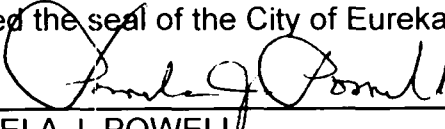
Environmental Planner, Lisa Shikany provided a brief report and introduced Adam Wagschal to update the Council on the North Coast MLPA Initiative process. No one from the public addressed the council regarding this subject matter.

Council received the report.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

Originating Dept. Community Development

Agenda Item 14

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Martin Slough Interceptor Phase 1 Consultant Services

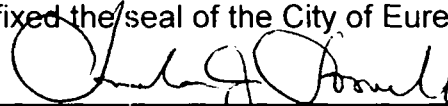
ACTION:

This item was pulled from the agenda and not discussed.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

Originating Dept.: Assistant City Manager

Agenda Item 15

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: City Manager/Executive Director's reports

ACTION:

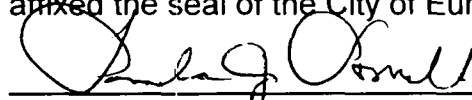
City Manager Tyson provided information regarding the following:

- Eureka Police Department Monthly report was presented by Lt. Tony Zanotti.
- Encouraged the Council and public to send letters to State elected officials regarding the Governors' proposed plan to eliminate Redevelopment Agencies.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of the City of Eureka on March 14, 2011.



PAMELA J. POWELL
CITY CLERK

Originating Dept. City Manager

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of February 15, 2011.

SUBJECT: Adjournment

ACTION:

Without objection, the meeting was adjourned at 7:38 P.M.

STATE OF CALIFORNIA)
County of Humboldt) ss.
City of Eureka)

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL
CITY CLERK

AGENDA SUMMARY**RE: PEMBERTON, AMY****FOR AGENDA DATE: APRIL 5, 2011****AGENDA ITEM No.:****4****RECOMMENDATION:**

Reject the claim for damages.

SUMMARY:

Tort claim in which claimant alleges police misconduct.

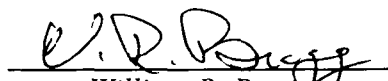
PROCEDURE:

The proposed rejection of a claim is one step in what is typically a multi-step process, as provided for by the City Municipal Code, and the City tort claims and review process. Unless the claim is patently due and payable to the claimant, all claims are

*Continued page 2***FISCAL IMPACT:**

Claimant seeks unspecified damages.

CITY ATTORNEY SIGNATURE


 William R. Bragg
 City Attorney

CITY MANAGER SIGNATURE:

 David W. Tyson
 City Manager

REVIEWED BY:

Risk Manager
 Chief of Police

DATE:

3/29/11
3/23/11

INITIALS:

PJP
6 N

Council Action:

Ordinance No. _____

Resolution No. _____

SUMMARY (continued)

commonly rejected by the City Council at this phase. The claim is then forwarded to the coverage joint powers authority for any further appropriate action. This might include further investigation of the claim, if any appears indicated, settlement in some cases, or the defense of an ensuing legal action, as the facts and circumstances warrant.

Eureka Municipal Code § 39.22 provides the City Council with the following options:

- *Reject the claim*
- *Allow the claim*
- *Allow the Claim in part, and reject it in part, if the claim is deemed valid, but the amount claimed is found to be incorrect*
- *Reject or compromise the claim if legal liability is disputed*
- *If the City Council allows the claim in whole or in part or compromises the claim, it may require the claimant, if he accepts the amount allowed or offered, to settle the claim, to accept it in settlement of the entire claim.*

In practice, however, the City's discretion in handling claims is somewhat constrained by the City's self-insurance memorandum of coverage with the Redwood Empire Municipal Insurance Fund (REMIF). In order to maintain coverage, the City has agreed to certain terms that are common in coverage agreements, including giving REMIF: the right to control, investigate, settle, or defend any claim that is covered by the coverage agreement.

Staff believes that the proposed rejection of this claim is appropriate at this time, based on currently available information, and is in conformance with the City's agreement with REMIF regarding handling of claims.

File With:
City of Eureka
531 "K" Street
Eureka, CA 95501

**CLAIM FOR MONEY OR
DAMAGES AGAINST THE
CITY OF EUREKA**

RESERVE FOR FILING STAMP

CLAIM NO.

FEB 22 2011

CITY CLERK

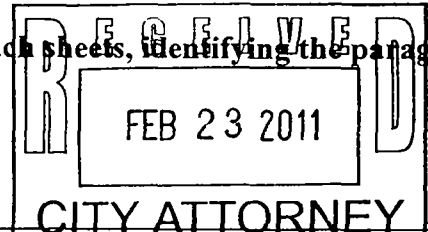
A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

1. Name and Post Office address of the Claimant:

Name of Claimant: **Amy Marie Pemberton, a/k/a Amy Marie Garcia**

Post Office Address: **c/o Law Office Of James A. Zito, 611 "L" Street, Suite "A", Eureka, California 95501**



2. Post Office address to which the person presenting the claim desires notices to be sent:

Name of Addressee: **James A. Zito**

Telephone: **(707) 269-0743**

Post Office Address: **611 "L" Street, Suite "A", Eureka, CA 95501**

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: **August 26, 2010 – September 16, 2010**

Time of Occurrence: **(Continuous)**

Location: **Various in the City Of Eureka, California**

Circumstances giving rise to this claim: **See attachment – Exhibit "A" – 1 Page**

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

See attachment – Exhibit "A" – 1 Page

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Officer Watson, Badge # 489; Officer Aubuchon

6. **If amount claimed totals less than \$10,000:** The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation:

If amount claimed exceeds \$10,000: If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

☐ Limited Civil Case

☒ Unlimited Civil Case

You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the city requests that you answer the following questions.

7. Claimant(s) Social Security Number(s): (optional)

8. Claimant(s) Date(s) of Birth:

9. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:
Dr. Kevin Brady, 2700 Dolbeer, Eureka, CA 95501, 707-445-8121; Judy Long; Cellmate in Humboldt County Correctional Facility; Dr. David Villasenor, 2412 Buhne, Eureka, CA 95501, (707) 441-1624; Hillary Powell, PA, 2412 Buhne, Eureka, CA 95501, (707) 441-1624

10. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:
See # 9, Above
-
-

If applicable, please attach any medical bills or reports or similar documents supporting your claim.

11. If the claim relates to an automobile accident: **Not A MVA**

Claimant(s) Auto Ins. Co.:

Telephone:

Address:

Insurance Policy No.:

Insurance Broker/Agent:

Telephone:

Address:

Claimant's Veh. Lic. No.:

Vehicle Make/Year:

Claimant's Drivers Lic. No.:

Expiration:

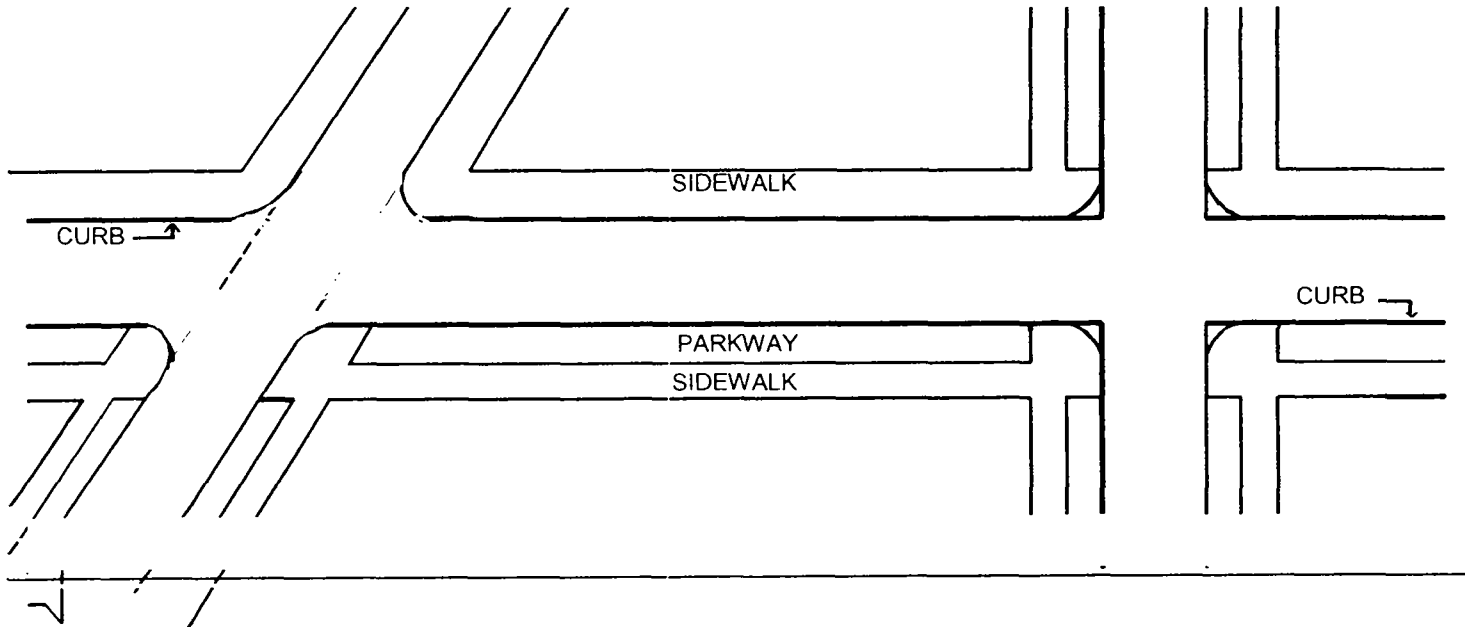
If applicable, please attach any repair bills, estimates or similar documents supporting your claim.

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If /Agency Vehicle was involved, designate by letter "A" location of /Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw

/Agency Vehicle; location of /Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Warning: Presentation of a false claim with the intent to defraud is a felony (Penal Code §72). Pursuant to CCP §1038, the /Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature:

[Handwritten signature] for Claimant

Date: February 22, 2011

In August, 2010, I was on parole for receiving stolen property. On Aug. 26, 2010 I was arrested and charged with felony (P.C. § 211, robbery 2nd degree), misdemeanor (P.C. § 422 brandishing a knife), misdemeanor (P.C. § 417 (A)(1), and misdemeanor (B.P. § 4140). All of these charges were questionable. I went to court once, and, as I understand it, all charges were dismissed.

As a result of this false arrest and false criminal charges against me by the alleged victim (a former overnight roommate and acquaintance), Judy Long, and her co-conspirators, Sargent Watson, Badge No. 489, and Officer Aubuchon and the criminal complaint filed on August 30, 2010, I was jailed in the City of Eureka jail or at the Humboldt County Correctional Facility, or both during this time.

The police involved, including Sargent Watson, Badge No. 489, and Officer Aubuchon, I spent two to three weeks in jail. In spite of my continuing to inform the police officers at this jail facility about my serious medical condition, the need for medical attention. At the time I was unable to defecate, or walk. My urine was very dark. I was unable to eat without pain and could only swallow with excruciating pain. I suffered a loss of my hearing in my right ear and was crying due to the pain I was experiencing. Even though I was on parole for receiving stolen property, I was handcuffed to my bed. The police officers failed and refused to help me, or to carry out the doctor's instructions concerning my serious medical condition. As a result, I suffered from my kidneys shutting down, experienced blood clots, and I was not allowed to see a doctor in jail, and lapsed into a coma.

On or about September 16, 2010, I was finally taken to the emergency room at St. Joseph Hospital, 2700 Dolbeer Street, Eureka, CA 95501 Phone: (707) 445-8121


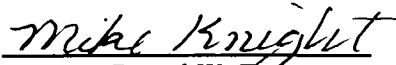
www.stjosepheureka.org and assigned Patient No. is SU05069058. My medical condition at the time of admittance to the Emergency Room was such that I was examined and treated by several doctors and medical personnel. As I understand it, I was diagnosed with sepsis which developed into endocarditis resulting in tricuspid valve replacement, amputation of four (4) toes on my left foot and the tip of my left index finger.

As a result, I have limited ambulation due to my left toes being amputated, poor left grip due to the loss of my finger tip, poor endurance due to heart valve replacement surgery. As part of my heart valve surgery, wires were placed in my heart, but no pacemaker was installed. Additionally, I must walk slowly and not turn around fast without support due to balance issues from the loss of my toes. My lifting of heavy objects are restricted from my surgery. My left hand grip is poor due to loss of fingertip. I have difficulty with memory recall due to brain hematoma (See MRI of Nov. 7, 2010).

Following my treatment and surgery at the hospital, I was placed on Amtrack and sent to Southern California.

EXHIBIT "A"

AGENDA SUMMARY

RE: RESOLUTION AUTHORIZING EXAMINATION OF TRANSACTIONS AND USE TAX RECORDS.	FOR AGENDA DATE: APRIL 5, 2011 AGENDA ITEM No.: <u>5</u>	
RECOMMENDATION: Adopt a resolution authorizing Hinderliter, de Llamas and Associates to examine Transactions and Use Tax records of the City in order to provide compliance auditing services		
SUMMARY: A general municipal election was held in the City of Eureka on November 2, 2010 for the purpose of submitting to the voters of Eureka ballot measure O relating to amendment of pertinent sections of the Eureka Municipal Code pertaining to a transactions and use tax (TUT). Measure O was successful and its passage has lead to several subsequent council actions necessary to implement the new tax. This action is not required, but is recommended by staff. The firm of Hinderliter, de Llamas and Associates (HdL) provides high quality consulting and auditing services for Sales Tax and Property Tax, to the City of Eureka. HdL will provide TUT information along with Sales Tax information for no additional fee. When a tax error or deficiency is discovered by HdL, their fee is 25% of the recovered amount. The attached resolution will allow HdL access to the TUT records necessary to do the compliance auditing work. Staff believes that the compliance auditing work is particularly important with this tax since the TUT has a record, at other agencies, of being vulnerable to errors in the early months following enactment.		
ATTACHEMENTS: Resolution of the City Council of the City of Eureka authorizing examination of transactions and use tax records.		
FISCAL IMPACT: There is no additional contract fee for auditing the transactions and use tax. HdL's fee is 25% of amounts recovered through their compliance auditing for the specific quarter(s) identified as being missing and/or deficient.		
DEPARTMENT HEAD SIGNATURE:  <hr style="width: 25%; margin-left: 0;"/> Paul Rodrigues Finance Director	CITY MANAGER SIGNATURE:  <hr style="width: 25%; margin-left: 0;"/> David W. Tyson City Manager	
REVIEWED BY: City Attorney	DATE: <u>5/29/11</u>	INITIALS: <u>WKB</u>
Council Action: <div style="display: flex; justify-content: space-between; margin-top: 20px;"> Ordinance No. _____ Resolution No. _____ </div>		

RESOLUTION NO. 2011-__

A RESOLUTION OF THE CITY OF EUREKA
AUTHORIZING EXAMINATION OF TRANSACTIONS AND USE TAX RECORDS

WHEREAS, pursuant to resolution No. 2011-, the City of Eureka entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local transactions and use taxes; and

WHEREAS, the City Council of the City of Eureka deems it necessary for authorized representatives of the City to examine confidential transactions and use tax records of the State Board of Equalization pertaining to transactions and use taxes collected by the Board for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation code sets forth certain requirements and conditions for the disclosure of Board records and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from the transactions and use tax records of the Board; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code requires that any person designated by the City shall have an existing contract to examine the City's sales and use tax records.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EUREKA HEREBY RESOLVES AS FOLLOWS:

Section 1. That the City Manager or other officer(s) or employee(s) of the City (hereafter referred to as City) designated in writing by the City Manager to the State Board of Equalization (hereafter referred to as Board), is hereby appointed to represent the City with authority to examine transactions and use tax records of the Board pertaining to transactions and use taxes collected for the City by the Board pursuant to the contract between the City and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the City transactions and use taxes by the Board pursuant to the contract.

Section 2. That the City's existing contract with Hinderliter, de Llamas and Associates is hereby amended to add thereto the examination of the transactions and use tax records of the city pertaining to transactions and use taxes collected for the City by the Board. The fee for transactions tax related audit and recovery work will be 25% of all new transactions tax or related use tax recovered for those specific quarters identified as being missing and/or deficient.

Sections 3. That Hinderliter, de Llamas and Associates is hereby designated to examine the transactions and use tax records of the City pertaining to transactions and use taxes collected for the City by the Board. The entity designated by this section meets all of the following conditions:

- (a) Has an existing contract with the City to examine those transactions and use tax records;

- (b) Is required by that contract to disclose information contained in, or derived from, those transactions and use tax records only to the officer(s) or employee(s) authorized under Section 1 of this resolution to examine the information.
- (c) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- (d) Is prohibited by that contract from retaining the information contained in, or derived from those transactions and use tax records, after that contract was expired.

The information obtained by examination of Board records shall be used only for purposes related to the collection of City transactions and use taxes by the Board pursuant to the contract between the City and the Board.

Section 3. The City Clerk of the City is hereby directed to certify adoption of this Resolution and to send a copy to:

Sate Board of Equalization
Local Tax Section MIC:27
P O Box 942879
Sacramento, CA 94279-0001

Passed, approved, and adopted by the Council of the City of Eureka, County of Humboldt, State of California, on the 5th Day of April, 2011, by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

ATTEST:

PAM POWELL,
CITY CLERK

FRANK JAEGER, MAYOR

APPROVED AS TO FORM:

APPROVED AS TO ADMINISTRATION

WILLIAM BRAGG,
CITY ATTORNEY

DAVID W. TYSON, CITY MANAGER

AGENDA SUMMARY

RE: AMENDMENT TO THE REIMBURSEMENT AGREEMENT RELATING TO THE EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS

FOR AGENDA DATE: APRIL 5, 2011

AGENDA ITEM No.:

6

RECOMMENDATION:

1. Adopt a resolution of the governing board of the Eureka Public Financing Authority authorizing and approving an amendment to the reimbursement agreement relating to the Eureka Public Financing Authority 2010 Lease Revenue Bonds, Taxable Series A and Series B.
2. Adopt a resolution of the governing board of the Eureka Redevelopment Agency authorizing and approving an amendment to the reimbursement agreement relating to the Eureka Public financing Authority 2010 Lease Revenue Bonds, Taxable Series A and Series B.
3. Adopt a resolution of City Council of the City of Eureka Agency authorizing and approving an amendment to the reimbursement agreement relating to the Eureka Public Financing Authority 2010 Lease Revenue bonds, Taxable Series A and Series B.

SUMMARY: The Reimbursement Agreement serves as the source of repayment for the 2010 Lease Revenue Bonds (Series A & B) and was placed on parity with the I-Banks's Tax Allocation Loan Agreement and also placed on parity with the 2003 Tax Allocation Bonds. Staff has discovered that both the Facility Lease of the 2010 Lease Revenue Bonds, and also Exhibit A of the Reimbursement Agreement do not have the dates required to be on parity with the I-Bank's Tax Allocation Loan Agreement and also the 2003 Tax Allocation Bonds.

The Parity debt requirements for both the I-Bank Loan Agreement and the 2003 Bonds require payment dates of May 1st and November 1st for interest payments, and principle payments on November 1st. Currently the Exhibit A of the Reimbursement Agreement and the Facility Lease for the 2010 Lease Revenue Bonds both have dates of April 15th and October 15th. Approval of the two resolutions will change the April 15th and October 15th payment dates to May 1st and November 1st respectively, satisfying the parity requirements.

CONCLUSIONS AND RECOMMENDATIONS:

Staff recommends that the governing Board of the Eureka Public Financing Authority, the Eureka Redevelopment Agency Board, and the Eureka City Council, adopt their respective resolutions bringing the debt payments into compliance with the parity debt requirements.

FISCAL IMPACT: None with this action

DEPARTMENT HEAD SIGNATURE:

[Signature]

(Name) FINANCE DIRECTOR
Title

CITY MANAGER SIGNATURE:

[Signature]

David W. Tyson
City Manager

REVIEWED BY:

City Attorney

DATE:

3/29/11

INITIALS:

WRB

Council Action:

Ordinance No. _____

Resolution No. _____

EUREKA REDEVELOPMENT AGENCY

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AND APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT RELATING TO THE EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, TAXABLE SERIES A AND EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, SERIES B AND SUCH OTHER DOCUMENTS, INSTRUMENTS, ACTIONS, AND MATTERS NECESSARY OR APPROPRIATE FOR, OR PERTAINING THERETO

WHEREAS, the Eureka Redevelopment Agency (the "Agency") is a redevelopment agency duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the Community Redevelopment Law, being Section 33000 and following of the Health and Safety Code of the State of California (the "Law"), and the powers of the Agency include the power to borrow and spend money for any of its corporate purposes; and

WHEREAS, the Agency is vested with the responsibility of implementing and carrying out the Amended and Restated Redevelopment Plan – Century III NDP Phase I, its Amended and Restated Development Plan – Tomorrow Redevelopment Project, and its Amended and Restated Redevelopment Plan – Century III NDP Phase II (collectively, the "Project Areas") in accordance with the California Community Redevelopment Law (being Part 1 of Division 24 of the California Health and Safety Code) (the "Law"); and

WHEREAS, the Agency is authorized under the Law, with the consent of the City Council (the "City Council") of the City of Eureka (the "City"), to pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvements which are publicly owned within the Project Areas, upon a determination by the Agency and said City Council that such buildings, facilities, structures or other improvements are of benefit to the Project Areas; and

WHEREAS, under the provisions of Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Act") the Eureka Public Financing Authority (the "Authority") issued its 2010 Lease Revenue Bonds, Taxable Series A and Series B, pursuant to that certain Trust Agreement, dated as of January 1, 2010 (the "Trust Agreement"), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee, to finance capital improvements located in the City (the "Project"); and

WHEREAS, the Agency entered into a Reimbursement Agreement (the "Reimbursement Agreement") with the Authority and the City, to finance the Project; and

WHEREAS, the reimbursement payment dates shown on Exhibit A to the Reimbursement Agreement need to be revised to correct an inconsistency within the Reimbursement Agreement and among parity obligations; and

WHEREAS, pursuant to Section 7.02 of the Trust Agreement, the Authority may consent to any amendment, change or modification of the Reimbursement Agreement that may be required for the purpose of curing any ambiguity or inconsistency or formal defect or omission; and

WHEREAS, pursuant to Section 4 of the Reimbursement Agreement, the Reimbursement Agreement may be amended from time to time by the parties for any purpose and with any effect whatsoever with the written consent of the City and the Agency; and

WHEREAS, being fully advised in the matter of the proposed financing, the Governing Board of the Agency wishes to approve the amendment to the Reimbursement Agreement as described above;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Eureka Redevelopment Agency (the "Governing Board") as follows:

Section 1. Amendment to the Reimbursement Agreement. All references in Exhibit A to the Reimbursement Agreement to "April 15" shall be amended to read "May 1" and to "October 15" shall be amended to read "November 1." Adoption and execution of this resolution shall serve as written consent of the Agency to such amendment.

Section 2. Miscellaneous Acts. The appropriate officers of the Agency are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable, file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may be necessary or desirable to implement or comply with the intent of this Resolution, or any of the documents herein authorized and approved, for or in connection with the amendment to the Reimbursement Agreement.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Eureka Redevelopment Agency at a regular meeting on the 5th day of April, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Chair of the Eureka Redevelopment Agency

ATTEST:

Secretary of the Eureka
Redevelopment Agency

EUREKA PUBLIC FINANCING AUTHORITY

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AND APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT RELATING TO THE EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, TAXABLE SERIES A AND EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, SERIES B AND SUCH OTHER DOCUMENTS, INSTRUMENTS, ACTIONS, AND MATTERS NECESSARY OR APPROPRIATE FOR, OR PERTAINING THERETO

WHEREAS, the Eureka Public Financing Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority"); and

WHEREAS, the City of Eureka is a municipal corporation organized and existing under the Constitution and laws of the State of California (the "City"); and

WHEREAS, the Authority is empowered under the provisions of Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law") to issue its bonds for the purpose of financing and refinancing certain public capital improvements; and

WHEREAS, under the provisions of Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Act") the Authority issued its 2010 Lease Revenue Bonds, Taxable Series A and Series B, pursuant to that certain Trust Agreement, dated as of January 1, 2010 (the "Trust Agreement"), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee, to finance capital improvements located in the City (the "Project"); and

WHEREAS, the Authority entered into that certain Reimbursement Agreement (the "Reimbursement Agreement") with the Eureka Redevelopment Agency (the "Agency") and the City, for the purpose of financing the Project; and

WHEREAS, the reimbursement payment dates shown on Exhibit A to the Reimbursement Agreement need to be revised to correct an inconsistency within the Reimbursement Agreement and among parity obligations which require May 1 and November 1 payment dates; and

WHEREAS, pursuant to Section 7.02 of the Trust Agreement, the Authority may consent to any amendment, change or modification of the Reimbursement Agreement that may be required for the purpose of curing any ambiguity or inconsistency or formal defect or omission; and

WHEREAS, pursuant to Section 4 of the Reimbursement Agreement, the Reimbursement Agreement may be amended from time to time by the parties for any

purpose and with any effect whatsoever with the written consent of the City and the Agency; and

WHEREAS, being fully advised in the matter of the proposed financing, the Governing Board wishes to approve the amendment to the Reimbursement Agreement as described above;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Eureka Public Financing Authority (the "Governing Board") as follows:

Section 1. Amendment to the Reimbursement Agreement. All references in Exhibit A to the Reimbursement Agreement to "April 15" shall be amended to read "May 1" and to "October 15" shall be amended to read "November 1."

Section 2. Miscellaneous Acts. The appropriate officers of the Agency are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable, file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may be necessary or desirable to implement or comply with the intent of this Resolution, or any of the documents herein authorized and approved, for or in connection with the amendment to the Reimbursement Agreement.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Eureka Public Financing Authority at a regular meeting on the 5th day of April, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Chair of the Eureka Public Financing
Authority

ATTEST:

Secretary of the Eureka Public
Financing Authority

CITY OF EUREKA

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AND APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT RELATING TO THE EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, TAXABLE SERIES A AND EUREKA PUBLIC FINANCING AUTHORITY 2010 LEASE REVENUE BONDS, SERIES B AND SUCH OTHER DOCUMENTS, INSTRUMENTS, ACTIONS, AND MATTERS NECESSARY OR APPROPRIATE FOR, OR PERTAINING THERETO

WHEREAS, the Eureka Public Financing Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority"); and

WHEREAS, the City of Eureka is a municipal corporation organized and existing under the Constitution and laws of the State of California (the "City"); and

WHEREAS, the Authority is empowered under the provisions of Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law") to issue its bonds for the purpose of financing and refinancing certain public capital improvements; and

WHEREAS, the City entered into a Site Lease and a Facilities Lease (the "Facilities Lease") with the Authority and a Reimbursement Agreement (the "Reimbursement Agreement") with the Authority and the Eureka Redevelopment Agency (the "Agency") for the purpose of financing and refinancing the acquisition and construction of certain public capital improvements located in the City (the "Project"); and

WHEREAS, under the provisions of the Law, the Authority issued its 2010 Lease Revenue Bonds, Taxable Series A and Series B, pursuant to that certain Trust Agreement, dated as of January 1, 2010 (the "Trust Agreement"), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee, to finance capital improvements located in the City (the "Project"); and

WHEREAS, the City entered into that certain Reimbursement Agreement (the "Reimbursement Agreement") with the Eureka Redevelopment Agency (the "Agency") and the Authority to finance the Project; and

WHEREAS, the reimbursement payment dates shown on Exhibit A to the Reimbursement Agreement need to be revised to correct an inconsistency within the Reimbursement Agreement and among parity obligations; and

WHEREAS, pursuant to Section 7.02 of the Trust Agreement, the Authority may consent to any amendment, change or modification of the Reimbursement Agreement

that may be required for the purpose of curing any ambiguity or inconsistency or formal defect or omission; and

WHEREAS, pursuant to Section 4 of the Reimbursement Agreement, the Reimbursement Agreement may be amended from time to time by the parties for any purpose and with any effect whatsoever with the written consent of the City and the Agency; and

WHEREAS, being fully advised in the matter of the proposed financing, the City Council wishes to approve the amendment to the Reimbursement Agreement as described above;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eureka as follows:

Section 1. Amendment to the Reimbursement Agreement. All references in Exhibit A to the Reimbursement Agreement to “April 15” shall be amended to read “May 1” and to “October 15” shall be amended to read “November 1.” Adoption and execution of this resolution shall serve as written consent of the City to such amendment.

Section 2. Miscellaneous Acts. The appropriate officers of the Agency are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable, file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may be necessary or desirable to implement or comply with the intent of this Resolution, or any of the documents herein authorized and approved, for or in connection with the amendment to the Reimbursement Agreement.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka at a regular meeting on the 5th day of April, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Mayor of the City of Eureka

ATTEST:

City Clerk of the City of Eureka

AGENDA SUMMARY**RE:** City of Eureka "Guide to the City Council Meeting Process"**FOR AGENDA DATE:**
AGENDA ITEM NO.:

7

RECOMMENDATION:

1. Adopt Resolution of the City Council of the City of Eureka adopting "A Guide to City Council Meetings" Confirming and Establishing Policies for Council Meeting Proceedings.

SUMMARY:

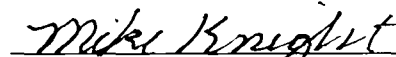
The "Guide to City Council Meeting Proceedings" was created to educate the public on how City Council meetings are established, the order of the meetings, rules of debate, and other policies that govern the conduct of the meeting. The guide is also designed to confirm established speaker time limits and establish policy for removing items from the "Consent Calendar". Adopting the resolution will confirm the three (3) minute speaker time, placement of reports, and that the public is allowed to speak concurrently with the calling of an agenda item following the staff presentation. The resolution also re-establishes a prior policy of the Council that directs any member of the public who wishes to have a consent calendar item pulled and discussed separately, approach a Councilmember some time prior to the meeting. Adoption of this policy does not prohibit any member of the public from speaking about any matter listed on the Consent Calendar during Public Comment, if the item is not pulled for separate discussion.

ATTACHMENTS:

Resolution
"A Guide to the City Council Meeting Process"

FISCAL IMPACT: None with this action.**DEPARTMENT HEAD SIGNATURE:**

Pam Powell
City Clerk

CITY MANAGER SIGNATURE:

David W. Tyson
City Manager

REVIEWED BY:

City Attorney

DATE:

INITIALS:

Council Action:

Ordinance No. _____

Resolution No. _____

RESOLUTION NO. 2011-

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EUREKA.ADOPTING "A GUIDE TO CITY COUNCIL MEETINGS"
CONFIRMING AND ESTABLISHING POLICIES FOR COUNCIL MEETING
PROCEEDINGS.**

WHEREAS, the City Council adopted Resolution No. 87-20 establishing the rules by which the Council conducts its meeting, proceedings, and business; and

WHEREAS, the City Council has adhered to City Council Minute Order dated May 4, 1989, to limit each speaker to three (3) minutes with such time allotment or portion thereof not to be transferred to other speakers; and

WHEREAS, pursuant to Council Minute Order dated June 6, 2000, the public is allowed to speak concurrently with the calling of an agenda item following the staff presentation of that item; and

WHEREAS, pursuant to Council Minute Order dated August 1, 2006 to limit Council Reports to communications from City Councilmembers and that reports by outside groups be agendaized under Reports and Action Items; and

WHEREAS, the City Council directs that any member of the public who has an interest in seeing a Consent Calendar item pulled from the Calendar and addressed separately shall approach a Councilmember at some time prior to the meeting and request such action; and

WHEREAS, it shall be at the Councilmember's discretion as to whether that item shall be pulled; and

WHEREAS, the public shall have the opportunity to speak to Consent Calendar items during Public Comment.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Eureka, to adopt the City of Eureka's "A Guide to the City Council Meeting Process" confirming and establishing Council meeting proceedings.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 5th day of April, 2011 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Frank J. Jäger, Mayor of the City of Eureka

Attest:

Pamela J. Powell, City Clerk

Approved as to Administration:

Approved as to form:

David W. Tyson, City Manager

William R. Bragg, Interim City Attorney



City of Eureka

**A Guide to The
City Council
Meeting Process**



Frank J. Jäger, Mayor
Marian Brady, Councilmember Ward 1
Linda Atkins, Councilmember Ward 2
Mike L. Newman, Councilmember Ward 3
Melinda Ciarabellini, Councilmember Ward 4
Lance Madsen, Councilmember Ward 5

531 K Street
Eureka, CA 95501
www.ci.eureka.ca.gov

The Mayor

The Mayor shall be at least 26 years old and is elected as an office of the City separate and apart from the Council. No person shall serve more than two consecutive full terms as Mayor. The Mayor shall preside at all meetings of the Council and serve as the official representative of the City for all ceremonial purposes. The Mayor shall appointments to Board and Committees with Council approval; approve or disapprove all City ordinances; and decide by his/her vote all tie votes

Mayor Pro-Tem

The Council shall elect one of its members a Mayor Pro Tem who shall preside at all meetings of the Council during the absence of the Mayor, and shall, in case of sickness or inability of the Mayor, or his absence from the City, act a Mayor of the City.

The City Council

The city is divided into five (5) wards, numbered consecutively from one to five inclusive with the respective boundaries set by ordinance. The qualified elector of the City voting as a whole shall elect one member of the Council from each of the five (5) wards. Councilmember serve four year overlapping terms.

Municipal Elections are held on the same date as the State of California general election. No person may serve more than two consecutive full terms as a Councilmember. The Council is the legislative policy-making branch of City government. It is the Council's responsibility to enact ordinances, resolutions and orders necessary for governing the affairs of the City, acts as the final appeal body on rulings of commissions, appoints the City Manager, City Attorney, and City Clerk.

Types of Council Meetings

All Council meetings are conducted in compliance with the Ralph M. Brown Act (California Government Code Section 54950, et.seq.) which requires legislative bodies to hold their meeting in public except under specific circumstances where closed session are authorize. City of Eureka Municipal Code Section 30.13 outlines the rules of decorum for City Council Meetings.

Regular Meetings

Eureka Municipal Code 30.01 sets the day and time for regular meetings of the Eureka City Council as the first and third Tuesday of each month at 6:00 P.M. in the Council Chambers. A 9:30 curfew will be observed and Council must approve a motion to extend the meeting beyond the 9:30 curfew. The agenda for Regular City Council/Redevelopment Agency meetings will be posted the Friday prior to the Tuesday meeting.

Special Meetings

Occasionally, the Mayor or three members of the City Council will call a Special Meeting to consider specific items. The City Clerk's office will post a notice of these meetings at least 24 hours in advance.

Closed Session

The City Council may meet in closed session before, during or after a meeting to discuss matters such as pending or threatened litigation, conference with real property negotiators, or consideration of appointment, performance evaluation, discipline, dismissal or release of a public employee. Regular closed sessions are scheduled on the first and third Tuesdays of each month at 5:00 p.m. prior to the Council's Regular open session.

Workshops/study Sessions

The City Council may conduct workshops or study sessions for a specific purpose, such as the preliminary annual City budget. These sessions are usually informal, though public, and may be held at a place other than the Council Chambers.

The Agenda

Agendas for City Council meetings are posted at City Hall, 531 K Street, Eureka. The entire agenda packet is available at the City Clerk's Office, the Humboldt County Library and on line at www.ci.eureka.ca.gov. Copies of the agenda are located to right of the double doors as you enter the Council Chambers.

The order of business for the Agenda is set by Eureka Municipal Code 30.09 and is as follows:

Closed Session *(if required)*

Public Comment is limited to 3 minutes each speaker on closed session agenda items only.

Invocation

Pledge of Allegiance to the Flag

Roll call

Mayor's Announcements

1. Presentation of Proclamations – A proclamation is a document expressing the Mayor and Council's support on various state and local activities or recognition of individuals or organizations for their work.
2. Opportunity for the Mayor to comment on activities occurring within the City and announce upcoming events.

Council Reports

Opportunity to briefly comment on Council business, city operations, projects, attendance at meeting(s) as a City-appointed Representative, travel and other items of interest to the Council. Council members may request that an item be placed on a future agenda or to direct staff to research, explore, examine or make inquiry into a specific item of interest. Upon a majority of the Council by a show of hands or nods, direction shall be given to the City Manager to calendar the item for a future agenda.

City Board/Commission report

An opportunity for City of Eureka Boards and Commissions to report to the Council and public on their activities, events or deliberations.

Public Hearings

In general, a Public Hearing is an item of open consideration heard within a Regular Meeting, for which special notice has been given. Public Hearings are required on specific items, such as zoning changes, appeals, proposed budgets and fee changes. After the Mayor opens the Public Hearing, the staff report is presented. The applicant and appellant (if applicable) speak following the staff report and any concerned individual is able to offer support or present protests on the matter under consideration. In order to afford all interested parties an opportunity to speak, the Mayor may impose a time limit less than the individual "3 minute limit" and/or limit the total time for public input on the item. The Mayor will then close the Public Hearing, discuss the matter and render its decision. No additional opportunity to speak on a public hearing item will be given after the public hearing is closed. Occasionally, the Public Hearing may be continued to another meeting.

Citizens' written/oral communications (*Public Comment*)

The Mayor and City Council encourages public participation in the decision-making process and appreciates when residents bring issues of community concern to their attention. Individuals wishing to address the Council on any agenda item may do so at the time the item is considered. Comments are limited to no more than 3 minutes per speaker.

Any member of the public may address the Council on Consent Calendar items and on any item that falls within the Eureka City Council's jurisdiction, regardless of whether or not that item appears on the agenda during the Public Comment Period, which occurs directly before the Consent Calendar is approved. Pursuant to the Brown Act, the City Council may not take action on an item that does not appear on the Agenda. It is not the policy of the City Council to respond to comments that are brought forth under the Public Comment Period section of the agenda. Rather, this section of the agenda simply affords members of the public to publicly state their opinion or position on various matters pertaining to City business. City Council policy is to limit

each speaker to three (3) minutes. Such time allotment or portion thereof shall not be transferred to other speakers

The public is encouraged to submit their comments in writing to the Council. Should the public wish to submit written materials, seven (7) copies are requested. This provides one copy for the Mayor and Council and one copy for the official record.

Public Comment at Special Meetings

The public shall be provided an opportunity to speak only on items that are listed on the Special Meeting Agenda. This opportunity will be provided before consideration of each item. City Council policy is to limit each speaker to three (3) minutes. Such time allotment or portion thereof shall not be transferred to other speakers.

Consent Calendar

All matters listed under this category on the agenda are considered by the City Council to be routine, and will be enacted by one motion only. Unless a specific request is made by a Councilmember, the Consent Calendar will not be read and there will be no separate discussion of these items. However, if a Councilmember indicates that separate discussion is required, that item will be removed from the Consent Calendar and considered separately.

A member of the public who has an interest in seeing a Consent Calendar item pulled from the Calendar and addressed separately should approach their Councilmember at some time prior to the meeting and express that opinion. If, after talking with the interested individual, a Councilmember chooses to pull the item in question from the Consent Calendar for discussion; those items are considered separately after the Consent Calendar is approved. City Council policy is to limit each speaker to three (3) minutes. Such time allotment or portion thereof shall not be transferred to other speakers

Ordinances/Resolutions

Ordinances are the laws of the City and are the most binding form of action taken by the City Council. An ordinance (except an Urgency Ordinance) is introduced as one meeting and adopted at a second meeting. The ordinance then becomes effective 30 days later.

Resolutions constitute an official written action or decision of the Council and becomes effective upon adoption.

Reports

Outside groups who present to the Council or special presentations are scheduled during this portion of the agenda. Action items requiring lengthy

staff reports and/or discussion prior to Council decision but do not require a resolution or ordinance are agendaized here.

City Manager Report

Monthly Public Safety reports are calendared in this section. This section is for the City Manager to report or update the Council on City operations, programs or other items of interest to the Council.

Adjournment

The Council has established 9:30 p.m. as the curfew for Regular Council meetings and will not continue beyond 9:30 p.m. without a majority vote of the Council.

Decorum in Council Meetings

While the Council is in session, all persons shall preserve order and decorum. Any person making personal, impertinent, threatening, or slanderous remarks, or who shall become boisterous while addressing the Council, shall be barred by the presiding officer from further attendance at said meeting unless permission for continued attendance is granted by a majority vote of the Council.

Every member of the public and every Councilmember desiring to speak shall address the presiding officer, and upon recognition by the presiding officer, shall confine comments to the question under debate, avoiding all indecorous language and references to personalities and abiding by the following rules of civil debate:

1. We may disagree, but we will be respectful of one another.
2. All comments will be directed to the issue at hand
3. Personal attacks are unacceptable.

Enforcement

The Chief of Police (or representative) shall be sergeant-at-arms at the Council meetings. The Police Chief shall carry out all orders and instructions of the presiding officer for the purpose of maintaining order and decorum in the Council Chambers.

Upon instruction of the presiding officer it shall be the duty of the sergeant-at-arms to eject from the Council Chambers any person in the audience who use boisterous or profane language, or language tending to bring the Council or any Councilmember into contempt, or any person who interrupts and refuses to keep quiet or take a seat when ordered to do so by the presiding officer or otherwise disrupts the proceedings of the Council.

Eureka City Council Rules of Conduct *Adopted by Council Resolution No. 87-20 to establish the rules by which the Council conducts its meetings, proceedings, and business.*

Business shall be brought before the Council by motion in accordance with the following standards of conduct:

Rule 1 – Obtaining the Floor.

Any member of the Council wishing to speak must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any Councilmember who seeks the floor when appropriately entitled to do so.

Rule 2 – Voting.

All Councilmembers present at a meeting when a question comes up for a vote, shall vote for or against the measure unless he/she is disqualified from voting and abstains because of such disqualification. The Council shall vote by voting machine. The Clerk shall declare the result and note for the record all “aye” votes and all “no” votes. Regardless of the manner of voting, the results reflecting all “ayes” and “noes” must be clearly set forth for the record. An abstention without a disqualification shall be recorded as a “no” vote.

Rule 3 – Motions.

Any member of the Council may bring a matter of business before the Council by making a motion. Before the matter can be considered or debated it must be seconded. Once the motion has been properly made and seconded, the Presiding Officer shall open the matter for debate offering the first opportunity to debate to the moving party and thereafter, to any Councilmember properly recognized by the Presiding Officer. Once the matter has been fully debated and the Presiding Officer calls for a vote, no further debate will be allowed, provided however, Councilmembers may be allowed to explain their vote. The Mayor may vote only to break a “tie” vote.

Rule 4 – Subsidiary Motions.

Once the main motion is properly placed on the floor, several related motions (“Rule 4 Motions”) may be employed in addressing the main motion. Rule 4 motions take precedence over the main motion, and if properly made and seconded, must be disposed of before the main motion can be acted upon. The motions described in Rules 4.1 to 4.7 are appropriate and may be made by any Councilmember at any appropriate time during the discussion of the main motion. They are listed in order of precedence. The first three subsidiary motions are non-debatable; the last four are debatable.

NONDEBATABLE SUBSIDIARY MOTIONS

Rule 4.1 – Lay on the Table.

Any Councilmember may move to lay the matter under discussion on the table. This motion temporarily suspends any further discussion on the pending motion without setting a time certain to resume debate. It must be moved and seconded and passed by a majority vote. In order to bring the matter back before the Council, a member must move that the matter be “taken from the table”, seconded and passed by a majority. A motion to take from the table must be made at the same meeting at which it was placed on the table or at the next regular meeting of the Council. Otherwise the motion that was tabled dies, although it can be raised later as a new motion.

Rule 4.2 – Move Previous Question.

Any Councilmember may move to immediately bring the question being debated by the Council to a vote, suspending any further debate. The motion must be made and seconded without interrupting one who already has the floor. A majority vote is required for passage.

Rule 4.3 – Limit or Extend Limits of Debate.

Any Councilmember may move to put limits on the length of debate. The motion must be made and seconded and requires majority vote of the Council to pass.

Rule 4.4 – Postpone to a Time Certain.

Any Councilmember may move to postpone the pending question to a time certain. This motion continues the pending main motion to a future date as determined by the Council at the time the motion is passed. The motion must be seconded and requires a majority vote for passage.

Rule 4.5 – Commit or Refer.

Any councilmember may move that the matter being discussed should be referred to a committee, commission or staff for further study. The motion must be seconded and requires a majority vote for passage. The motion may contain directions for the committee, commission or staff, as well as, a date upon which the matter will be returned to the Council's agenda. If no date is set for returning the item to the Council agenda, any Councilmember may move, at any time, to require the item be returned to the agenda. The motion must be seconded and a majority vote is required for passage if the item is to come back at future date certain, or a majority vote if the item is to be immediately discussed by the Council at the time the motion to return is made.

Rule 4.6 – Amend.

Any Councilmember may amend the main motion or any amendment made to the main motion. Before the main motion may be acted upon, all amendments and amendments to amendments must first be acted upon. A motion to amend must be seconded and requires a majority vote for passage. An amendment must be related to the main motion or amendment to which it is directed. Any amendment which substitutes a new motion rather than amending the existing motion is out of order and may be so declared by the Presiding Officer.

Rule 4.7 – Postpone Indefinitely.

Any Councilmember may move to postpone indefinitely the motion on the floor, thus avoiding a direct vote on the pending motion and suspending any further action on the matter. The motion must be seconded and requires a majority vote for passage.

MOTIONS OF PRIVILEGE, ORDER AND CONVENIENCE

Rule 5 – Orderly Conduct.

Rule 5 actions by the Council are to insure orderly conduct of meetings and for the convenience of the Presiding Officer and Councilmembers. These motions take precedence over any pending main or subsidiary motion and may or may not be debated as noted.

Rule 5.1 – Call for Orders of the Day.

Any Councilmember may demand that the agenda be followed in the order stated therein. No second is required and the Presiding Officer must comply unless the council, by majority vote, sets aside the orders of the day.

Rule 5.2 – Question of Privilege.

Any Councilmember, at any time during the meeting, may make a request of the Presiding Officer to accommodate the needs of the Council or his/her personal needs for such things as reducing noise, adjusting air conditioning, ventilation, lighting, etc. Admissibility of question is ruled on by the Presiding Officer.

Rule 5.3 – Recess.

Any Councilmember may move for a recess. The motion must be seconded and a majority vote is required for passage. The motion is debatable.

Rule 5.4 – Adjourn.

Any Councilmember may move to adjourn at any time, even if there is business pending. The motion must be seconded and a majority vote is required for passage. The motion is not debatable.

Rule 5.5 – Point of Order.

Any councilmember may require the Presiding Officer to enforce the rules of the Council by raising a point of order. The point of order shall be ruled upon by the Presiding Officer subject to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine the matter.

Rule 5.6 – Suspend the Rules.

Any Councilmember may move to suspend the rules if necessary to accomplish a matter that would otherwise violate the rules. The motion requires a second and a majority vote is required for passage.

Rule 5.7 – Division of Question.

Any Councilmember may move to divide the subject matter of a motion which is made up of several parts in order to vote separately on each part. The motion requires a second and a majority vote for passage. This motion may also be applied to complex ordinances or resolutions.

Rule 5.8 – Reconsider.

Except for votes regarding matters which are quasi-judicial in nature or matters which require a noticed public hearing, the Council may reconsider any vote taken at the same session, but no later than the same or next calendar day, to correct inadvertent or precipitant errors, or consider new information not available at the time of the vote. The motion to reconsider must be made by a Councilmember who voted on the prevailing side, must be seconded and requires a majority vote for passage, regardless of the vote required to adopt the motion being reconsidered. If the motion to reconsider is successful, the matter to be reconsidered takes no special precedence over other pending matters and any special voting requirements related thereto still reconsider, once a matter has been determined and voted upon, the same matter cannot be brought up again at the same meeting.

Rule 5.9 – Rescind, Repeal or Annul.

The Council may rescind, repeal or annul any prior action taken with reference to any legislative matter so long as the action to rescind, repeal or annul complies

with all the rules applicable to the initial adoption, including any special voting or notice requirements or unless otherwise specified by law.

Rule 6 – Authority of the Presiding Officer.

Subject to appeal, the Presiding Officer shall have the authority to prevent the misuse of the legitimate form of motions, or the abuse of privilege of renewing certain motions, to obstruct the business of the Council by ruling such motions out of order. In so ruling, the Presiding Officer shall be courteous and fair and should presume that the moving party is making the motion in good faith.

Rule 7 – Public Hearings.

Matters which are required to be heard at a public hearing shall be conducted in the following manner.

Rule 7.1 – Time for Consideration.

Matters noticed to be heard by the Council shall commence at the time specified in the notice of hearing or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

Rule 7.2 – Continuance of Hearings.

Any hearing being held or noticed or ordered to be held by the Council at any meeting of the Council may, by order or notice of continuance, be continued or re-continued to any subsequent meeting in the manner provided herein for adjourned meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or notice of continuance was adopted or made.

Rule 7.3 – Public Discussion at Hearings.

When a matter for public hearing comes before the Council, the Presiding Office shall open the public hearing. Upon opening the public hearing and before any motion is adopted related to the merits of the issue to be heard, the Presiding Officer shall inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence respecting the matter. Any person desiring to speak or present evidence shall make his/her presence known to the Presiding Officer and upon being recognized by the Presiding Officer, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the Presiding Officer. Members of the Council who wish to ask questions of the speakers or each other, during the public hearing portion may do so but only after first being

recognized by the Presiding Officer. The Presiding Officer shall conduct the meeting in such a manner as to afford due process.

All persons interested in the matter being heard by Council shall be entitled to submit written evidence or remarks, as well as the graphic evidence. All such evidence presented shall be retained by the City Clerk as part of the Clerk's record. Time limits may be established by the Council, limiting the duration of presentations as set forth in these rules.* No person shall be permitted during the hearing, to speak about matters or present evidence which are not germane to the matter being considered. A determination of relevance shall be made by the Presiding Officer, but may be appealed as set forth in these rules.

Rule 7.4 – Consideration of Question by Council.

After all members of the public desiring to speak upon the subject of the hearing have been given an opportunity to do so, the public hearing shall be closed by the Presiding Officer and the Council may consider what disposition they wish to make of the question or questions presented at the hearing. No member of the public shall be allowed, without consent of the Presiding Officer, to speak further on the question during the period of deliberation, although the Councilmembers may ask questions of the speakers if so desired. At the conclusion of Council discussion, and appropriate motion having been made and seconded, the council shall vote on the matter.

**Individuals testifying at the public hearing do not have a right to unlimited time. The Council, either at the beginning of the hearing, or pursuant to a motion to limit debate, may place time limits on speakers. If limits are placed on the time to speak, they should be uniformly applied to all parties and adhered to as strictly as possible to avoid allegations of unfair treatment. When speaking time is limited it is always a good idea to advise all parties present that they can submit written remarks or evidence to augment their presentation.*

If public hearing applies to a quasi-judicial matter, even though limits can be placed on speakers, good practice dictates that the affected party (applicant, appellant, individual having license revoked, etc.) be given a reasonable opportunity to present his/her case to avoid a denial of due process. Remember, quasi-judicial of proceedings are evidence gathering procedures which require the Council decision to be based on substantial evidence in the record. Legislative proceedings are not dependent upon evidence presented and the Council can exercise a much broader range of discretion.

SECTION 2.

Any resolution inconsistent herewith is hereby superseded and repealed.

AGENDA SUMMARY**RE: MEDICAL CANNABIS SELECTION COMMITTEE
RECOMMENDATION****FOR AGENDA DATE: April 5, 2011
AGENDA ITEM No.:**

9

RECOMMENDATION:

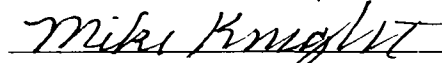
1. Receive presentation from Humboldt Bay Wellness; and
2. Invite *Humboldt Bay Wellness* to submit an application for a Conditional Use Permit to establish a medical cannabis cultivation, production and distribution facility in the city limits.

SUMMARY:

On August 3, 2010 the City Council adopted Chapter 158, the Medical Cannabis Ordinance. The Medical Cannabis Ordinance specifies the requirements for cultivating, processing and dispensing medical cannabis within Eureka's city limits. Pursuant to the Ordinance, the establishment of a medical cannabis cultivation, processing and/or distribution facility within the city requires a Conditional Use Permit and only those collectives/cooperatives who are invited by the City Council may submit an application for a Conditional Use Permit.

In order to assist the City Council in determining which collectives/cooperatives to invite, the Council appointed a Medical Cannabis Selection Committee (MCSC) to make recommendations to the Council on which collectives/cooperatives who the MCSC believe will meet the expectations of the Council with regard to their qualifications, business experience, business plan, and ability to operate a clean and safe facility.

*Continued page 2***FISCAL IMPACT:** None with this action.**CITY MANAGER SIGNATURE:**


 David W. Tyson
 City Manager

REVIEWED BY:**DATE:****INITIALS:****Council Action:**

Ordinance No. _____

Resolution No. _____

SUMMARY (continued):

The MCSC is comprised of five members:

- Jeff Leonard, Chairman
- Councilmember Linda Atkins
- Councilmember Marian Brady
- Chuck Edwards, business representative
- Paul Hagen, community representative

Sidnie L. Olson, Director of Community Development, and David Tyson, City Manager, provided staff support to the MCSC.

The MCSC prepared and issued a Request for Qualifications (RFQ) inviting submittal of a business plan and qualifications from persons, collectives or cooperatives interested in establishing a medical cannabis facility within the city of Eureka. The RFQ stated that the MCSC would submit to the City Council anywhere from zero (0) to six (6) names depending on the qualifications of the applicants and it advised that a Conditional Use Permit is a discretionary permit and an invitation to submit an application for a Conditional Use Permit in no way guarantees or implies approval of the Conditional Use Permit.

The Request for Qualifications also stated that the RFQ was:

“not a contract or commitment of any kind of the City of Eureka and does not commit the City to choosing any respondents, or pay any cost incurred preparing the submission. The City, at its sole discretion, reserves the right to accept or reject, in whole or in part, submittals received in response to this request, or to cancel in whole or in part this Request for Qualifications.”

The Medical Cannabis Ordinance limits the total number of Conditional Use Permits that can be granted to a maximum of six. Four of the Conditional Use Permits could allow a facility that cultivates and processes medical cannabis within the city, and then distributes that medical cannabis from a maximum of two locations within the city. Two of the Conditional Use Permits could allow a facility to distribute from one location medical cannabis not cultivated and processed within the city.

A total of 25 business plans and qualifications were submitted in response to the RFQ. The MCSC received 16 submittals from collectives/cooperative interested in cultivating, processing and distributing medical cannabis in the city, and 9 submittals from collectives/cooperatives interested in only distributing medical cannabis in the city. The MCSC reviewed the 25 submittals and then invited seven collectives/cooperatives for oral interviews. The MCSC’s

recommendations contained herein are based upon their evaluation of the submittals and the oral interviews conducted on February 10, 2011.

The MCSC felt that all seven of the collectives/cooperatives interviewed on February 10, 2011, presented solid business plans and qualifications. However, the MCSC felt that three collectives/cooperatives stood out in their commitment to providing safe, secure and comfortable access to medicinal cannabis for those patients in Eureka who truly need it. These three collectives/cooperatives are dedicated to the research and advancement of cannabis solely and only for its therapeutic value, not its recreational value.

The Medical Cannabis Selection Committee recommended that the City Council invite the following three collectives/cooperatives to submit to the Community Development Department an application for a conditional use permit to establish a medical cannabis facility in the city of Eureka:

Compassionate Care of Eureka

Directors: Laura Benedict and Bill Byron.

Conditional Use Permit: cultivation, processing and distribution

Humboldt Bay Wellness

Directors: Kellie Dodds, Donna King, and Laurell Jewell.

Conditional Use Permit: distribution only.

Natural Green Health Center

Directors: Gerald Wilson, Russell Leverenz, Chris Van Hook, Robert Kennedy, and Brenda Cedarblade.

Conditional Use Permit: cultivation, processing and distribution

At the March 15, 2011 meeting, Council invited Compassionate Care of Eureka and Natural Green Health Center to submit application for a Condition Use Permit to operate a cultivation, processing and distribution center in the City of Eureka. The Council declined to invite Humboldt Bay Wellness to submit a Conditional Use Permit as the Council made a decision that medical cannabis must be cultivated within the City of Eureka. At the March 17, 2011 special meeting, Council invited Humboldt Bay Wellness to return to Council with a business model that included medical cannabis cultivation and processing along with distribution for consideration of a Conditional Use Permit.

AGENDA SUMMARY**RE: SUPPLEMENTAL TRANSACTION AND USE TAX
OVERSIGHT COMMITTEE****FOR AGENDA DATE: APRIL 5, 2011****AGENDA ITEM No.:**

10

RECOMMENDATION:

Authorize the Finance Advisory Committee to assume the responsibilities of the Citizen Oversight Committee as described in Section 35.191 of the Supplemental Transaction and Use Tax.

At the City Council meeting of December 7, 2010, the City Council adopted Bill No. 818-CS which authorized a one-half of one percent (0.50%) Supplemental Transaction and Use Tax (Tax). The Bill was submitted and approved by the voters on November 2, 2010.

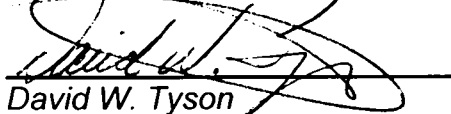
Section 35.191. FISCAL ACCOUNTABILITY PROVISIONS of the Tax requires the establishment of a Citizen's Oversight Committee to conduct annual audits of all expenditures generated by the Tax to ensure fiscal accountability and public participation. The Oversight Committee may be substituted with the City's existing Finance Advisory Committee (FAC).

Staff recommends the Oversight Committee duties be assigned to the FAC. The FAC is an established committee with an understanding of the City's budget and financial systems. Rather than establishing a new committee assigning the oversight duties to the FAC will condense the workload of City staff into a single committee.

Attachments: Supplemental Transaction and Use Tax Ordinance

FISCAL IMPACT:

None with the Recommended Action.

CITY MANAGER SIGNATURE:
David W. Tyson
City Manager**REVIEWED BY:****DATE:****INITIALS:****Council Action:**

Ordinance No. _____

Resolution No. _____

Bill No. 818-CS

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF EUREKA
AMENDING CHAPTER 35 OF THE EUREKA MUNICIPAL CODE
RELATING TO A SUPPLEMENTAL TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

WHEREAS, in the last 20 years the state has taken more than \$20 million from Eureka in property tax and other revenues and without these monies its has become increasingly more difficult to balance our own budget and fund City services; and

WHEREAS, the City's General Fund is used to fund such essential government services as police, fire, medical response, public works, parks and recreation, environmental programs and other essential services provided by the City to its citizens; and

WHEREAS, the voters of the State of California approved Proposition 218, the "Tax Payer's Right to Vote", which requires new and/or increased taxes to be submitted to the voters for approval; and

WHEREAS, a one-half of one percent increase to the City's existing Transaction and Use Tax will generate approximately \$3,200,000 per year, which will partially offset the City's general fund revenue losses to the State, and will permit the City to maintain these essential governmental services; and

WHEREAS, the Eureka City Council submitted to the voters a question relating to amendment of pertinent sections of the Eureka Municipal Code adding a one-half of one percent (0.50%) "Supplemental Transaction and Use Tax"; and

WHEREAS, a Municipal Election was held in the City of Eureka, California, on Tuesday, November 2, 2010, at which there was submitted to the voters the following Measure:

SHALL THE EUREKA CITY COUNCIL IMPLEMENT A SALES TAX OF ONE-HALF OF ONE PERCENT (0.50%) TO FUND ESSENTIAL SERVICES SUCH AS POLICE, FIRE, MEDICAL RESPONSE, STREET MAINTENANCE, ENVIRONMENTAL PROGRAMS, ZOO, AND PARKS AND RECREATION, WITH THE FOLLOWING RESRICTIONS?

- The sales tax will expire after five years, unless reauthorized by the voters.
- A Citizen's Oversight Committee shall be established to conduct annual

audits of all expenditures generated by the tax to ensure fiscal accountability and public participation; and

WHEREAS, a Municipal Election was held in the City of Eureka, California, on Tuesday, November 2, 2010, and the voters approved Measure "O" – the Supplemental Transaction and Use Tax Ordinance.

Be it ordained by the City Council of the City of Eureka as follows:

Section 1. Authority. The City Council enacts this ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the California Constitution and Section 7285.9 of the California Revenue and Taxation Code.

Section 2. Amendments to Chapter 35. That upon majority approval, by a vote of the electorate, of the Supplemental Transaction and Use Tax Measure during the November 2, 2010, Municipal Election the City Council of the City of Eureka shall adopt the following amendments to Chapter 35 of the Eureka Municipal Code regarding "Supplemental Transaction and Use Tax":

Chapter 35 of the Eureka Municipal Code is amended to read as follows:

Section 35.175 TITLE. This ordinance shall be known as the "Supplemental Transactions and Use Tax". The City of EUREKA hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City. This ordinance shall be a complement, and not replace or supersede, the City's existing Transaction and Use Tax, as such described in Chapter 35 Sections 35.160 thru 35.173 of the Eureka Municipal Code.

Section 35.176 DEFINITIONS.

For the purpose of this ordinance the following words terms shall have the meaning given in this Section:

"In the City" means and includes all territory within the City limits.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption. If the measure is approved at the November 2, 2010 election, the operative date shall be April 1, 2011.

"Termination Date" initially shall mean the June 30, 2016, and if by a majority of the electors voting on the measure at an election subsequent to November 2, 2010 election, shall mean such later date as the electors may approve.

Section 35.177. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 35.178. CONTRACT WITH STATE. Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 35.179. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the City at the rate of one-half of one percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance. The tax in addition the City's existing sales and use tax set forth in Article 5 of Chapter 3.24 of Title 3 of the EUREKA Municipal Code.

Section 35.180. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the

tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 35.181. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent (0.50%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 35.182. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 35.183. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 35.184. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 35.185. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of

Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 35.186. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 35.187. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

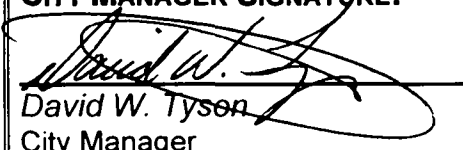
Section 35.188. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 35.189. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Section 35.190. TERMINATION DATE. Termination Date” initially shall mean the June 30, 2016, and if by a majority of the electors voting on the measure at an election subsequent to November 2, 2010 election, shall mean such later date as the electors may approve.

Section 35.191. FISCAL ACCOUNTABILITY PROVISIONS. Consistent with Eureka’s value to be transparent, a Citizen’s Oversight Committee shall be established to conduct annual audits of all expenditures generated by the tax to ensure fiscal accountability and public participation. The Oversight Committee may be substituted with the City’s existing Finance Advisory Committee.

AGENDA SUMMARY

RE: STRATEGIC PLANNING PROCESS		FOR AGENDA DATE: APRIL 5, 2011	
		AGENDA ITEM No.: / /	
RECOMMENDATION: Authorize the City Manager to engage the services of Roger James to assist the City with a Strategic Planning process for an amount not to exceed \$10,500.			
 Strategic planning is a process that will assist the City Council in clearly defining their objectives for the community. A strategic planning process will provide the City Council with an opportunity to assess the organization both internally and externally to formulate and implement a strategy. Through this process the City Council will establish a process to evaluate the progress of their Plan, as well as make adjustments as necessary to stay on track. The funding for the strategic planning process will come from existing budgeted funds and is estimated to cost approximately \$10,500 (\$9,600 consulting fee, \$750 meeting recording fee; \$150 materials). Attachments: City of Eureka Strategic Planning Overview			
FISCAL IMPACT: The \$10,500 contract cost will be funded from existing City budgets and will be allocated by fund on a basis similar to other Non-departmental costs.			
CITY MANAGER SIGNATURE:  David W. Tyson City Manager			
REVIEWED BY:		DATE:	INITIALS:
Council Action: Ordinance No. _____ Resolution No. _____			

City of Eureka Strategic Planning Overview - DRAFT

Desired Outcomes

- ❖ Agreement on a strategic planning process
- ❖ Agreement on the goals the Council wants to achieve together during their tenure
- ❖ Agreement on a small number of strategic initiatives to achieve the goals
- ❖ Agreement on implementation plans for all initiatives
- ❖ Highly effective working relationships within the Council and among the Council, City Manager, and department heads

Start-Up	Goals	Strategic Initiatives	Close-Out
<p>April, 2011</p> <p>Activities</p> <ul style="list-style-type: none"> Council meeting to Develop agreements on project outcomes and process Review individual Myers-Briggs profiles and identify implications for their working together Identify what they need from staff to successfully carry out this project Meeting of all parties to review project outcomes and process and develop agreements on how best to work together 	<p>April-May, 2011</p> <p>Activities</p> <ul style="list-style-type: none"> Staff meeting to develop input (e.g., education, advice, cautions) to Council visioning process Meeting of all parties to share and clarify staff input Council meeting to develop agreement on goals Meeting of all parties for Council to present goals and department heads to provide feedback 	<p>May-June, 2011</p> <p>Activities</p> <ul style="list-style-type: none"> Staff meeting to develop recommendations to Council about strategic initiatives needed to achieve the goals Meeting of all parties to agree on strategic initiatives Staff develop draft implementation plans (e.g., activities, timeframes, resources) for strategic initiatives Meeting of all parties to develop agreements on implementation plans 	<p>June, 2011</p> <p>Activities</p> <ul style="list-style-type: none"> Meeting of all parties to identify lessons learned from the process